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## PRISON REFORM IN INDIA



# PRISON REFORM IN INDIA

By

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With a Foreword

by

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FIRST PUBLISHED, 1936

## FOREWORD

This book must commend itself to the serious judgement of every one of us, not merely because it declares the revolt of the High Priest against the cult which he has had perforce to practise, but chiefly because the new doctrine preached and the new cult set up are undoubtedly of the highest practical value. This treatise is a challenge both to official and non-official complacency.

As Colonel Tarapore observes more than once, we give a fair measure of ourselves by our attitude towards the weak and erring, the dumb and derelict, the helpless and hopeless amongst our fellow men.

Too many of us still regard disease and death as visitations, scourges and retribution for past misdeeds, and our attitude to crime and criminals is not much different—we are either completely indifferent or complacently self-righteous. Yet the problem of crime is a vital part of the whole problem of social reconstruction, and the proper treatment of the criminal



We are apt to miss the actual significance of what both in common parlance and in our Penal Code, is termed 'crime'. If we remind ourselves that more often than not what we call crime consists in the breach of certain social conventions, and that such contraventions or breaches are but the symptom and effect of social maladjustment, we shall cease to regard crime as a thing by itself, foreign and extraneous to human society. We shall then learn to regard the person whom we stamp as a criminal, not as an intrinsically malignant force, as a self-willed and self-made enemy of society—to be dealt with harshly, savagely, by means of physical and moral humiliation, to be broken or destroyed—but rather as a victim of circumstances over which in most cases he has had no control. Social disapprobation for breach of social conventions can be visited on the offender in such a way that, while it brings sufficiently home to him the nature and consequences of his lapse, it may still do so without destroying in him the possibility of becoming a normally self-respecting and useful citizen. That is the central thesis of this book.

In this country only a few of the intelligentsia—mostly from among those who have tasted jail life in the course of political activity—have

recently begun to discuss the problems concerning the treatment of offenders, and to plead that the criminal should not be regarded as an outcaste but really as a victim of circumstances. Such statements are generally received by the majority of us as sentimental or 'idealist' effervescence.

But it will be impossible for the most hide-bound bureaucrat to dismiss Colonel Tarapore as a sentimentalist. Here is a man who knows what he is talking about, and who has for a decade attempted and seriously put into practice, with notable results, what he has now thought fit publicly to preach.

In the following pages are some of the conclusions at which he has arrived after years of experience, observation and reflection as a practical and successful jail administrator.

There is no such person as a 'born' criminal, but there is such a person as a confirmed criminal: the paradox being explained by the fact that the confirmed criminal is not born, but is mostly made by society, and upon society devolves his appropriate treatment. If instead of calling such a man a 'criminal type' we called him the 'prison type', we should be getting much nearer the truth, and beginning to understand the real obligations of society. 'However

enlightened a prison system may be, no prisoner emerges quite the same as he went in . . . . . He is like a cripple beginning to walk, whom the slightest push bowls over.' And in all conscience, the treatment of criminals (including political ones) in Indian jails is far from enlightened, based as it is largely on the theory of subduing and controlling the spirit of the convict by constant physical and moral humiliation.

The spirit in which the author visualizes the problem of punishment or correction is that of the doctor treating his patients, not looking upon the criminal as beyond the pale of humanity, but considering him as a being who can—and must as far as humanly possible—be reclaimed and won back to normal ways. And in the process of reclamation force and rigour are useful, if at all, to a strictly limited extent. As Colonel Tarapore earnestly pleads: 'If men are to be returned to society as useful members, there should be alternatives to imprisonment and a generous and intelligent employment of such substitutes. If it is possible to correct and reform an offender without submitting him to the influence of a prison, it is the duty of the State to do so.'

In civilized countries the practical application of the principle of minimum imprisonment or a

substitute for it has resulted in juvenile and young offenders getting the far-reaching benefits of the Borstal system in one form or another, and adult criminals those of Preventive Detention, the Probation system, the Parole system and revisions of sentence.

The urgent necessity of devising ways and means in this country which would make it impossible for juvenile, young and first offenders to come in contact with habituals and hardened criminals inside a prison or house of correction, is clearly borne in upon us by a study of this book. It may be taken as an axiomatic truth that habitual criminals are made not outside but inside prisons. More often than not a youth comes into conflict with the law through some uncontrolled or misdirected impulse, or some momentary lapse which he is capable of regretting very soon after. Does he however get a chance of regretting, repenting and reforming when he is exposed unprotected to the daily influence and example of men inured to crime, men who harbour a grievance against society, men whose sole diversion in life, consciously or unconsciously nurtured, is to forge new instruments and to train more soldiers for the war against the society which they inwardly accuse of having dealt with them harshly ?

From the problem of the manufacture of criminals the author turns his attention to the equally grave problem of the reformation of the criminal. Ten men may commit ten similar thefts, but the motives or the circumstances in each case may be quite different. Why should all the ten expiate the crime in the same way? Why should not each of them be given a chance to turn over a new leaf, and those of them who prove themselves fit be allowed once again to become useful members of society? An honest man with a family to support, unemployed through no fault of his own and driven by hunger to steal a hundred rupees, and a petty gambler resorting to the theft of a like amount, have only technically committed the same offence. But the State treats them exactly alike in dealing with them as offenders. Two men suffering different ailments are dosed with the same medicine. Or again, what meaning is there in making men work out, mechanically, sentences prescribed by the Indian Penal Code, or given by the judge or magistrate? By what yardstick or measure-glass or thermometer is the State able to assure us that a given crime is expiated in seven years, and not in five or two or one? And yet, if the State cannot give such an assurance the bottom is knocked

out of the present theory and practice of punishment. What justification can there be for maintaining a system which, apart from imposing a heavy burden on the taxpayer, is based on theories which have in principle no validity, and in practice no value whatever?

Such considerations have led the author to discuss, with full regard to their adaptability, methods already used in many civilized countries by which criminals are carefully sifted and classified into various categories, and appropriately dealt with for the purpose of reformation. But since grinding poverty, vastly more than moral depravity, is at the root of most of the 'crimes' in this country, it would be both callous and unpractical to delay any longer giving a trial to such measures as the revision of sentences, the probation system, and preventive detention, discussed in this book. It is gratifying to note that Colonel Tarapore, speaking from firsthand experience, assures us that every one of these systems can be effectively and beneficially worked in this country.

The author has lucidly pointed out that the problems of penal reform are only a part—even though a vital part—of the larger struggle towards reforms and regeneration upon which India is so strenuously engaged. That indeed

is a self-evident proposition. At the same time as we talk of reforming the criminal and restoring him to society, we must frankly recognize that after a point such talk becomes meaningless. What is the point of reforming a criminal and restoring him to a society which inevitably produced him ? As long as brother denies to brother justice and equal opportunity, so long must the hand of each be against the other. The stronger will make the law and the weaker will break it. The former will be the jailor and the latter the criminal. Without establishing a more equitable social and economic order, can we honestly expect the criminal to be reconciled to his jailor ?

BHULABHAI J. DESAI

## PREFACE

THE main plea for this book lies in the state of public opinion in India towards crime and the criminal. It is the result of over ten years' administration of the prisons of Burma, an administration which I hope has been characterized by some permanent improvements in the penal system of that Province. That these improvements were necessary, and that these improvements have often been carried through with the greatest difficulty would, I am sure, be justification enough for adding yet another volume to the library on crime. But when I am fully conscious that the work done during my term of office as Inspector-General of Prisons is but a small part of what ought to be done, the justification for the following chapters becomes imperative.

The study of crime in India has in the past been approached mainly from the administrative point of view. Generally speaking, the sociological aspects of crime and the criminal have received only secondary consideration. There have been, it is true, a few honourable exceptions. The admirable work of the



Salvation Army in tackling the difficult problem of the criminal tribes in several Provinces, and the enlightened experiments in modern penology in Madras have been guide-posts, which unfortunately have not been fully studied, appreciated, or imitated. Governments have been inclined to look upon their Prison Departments as purely punitive addenda to their administration of law and order. In times of financial stringency the prisons have been the first to suffer, and experiment, even involving the smallest sums of money, has been discouraged. At the same time, public opinion in India has been almost totally indifferent to the problems centering round the treatment of the criminal. Indian public men and politicians have concentrated their energies on wider and more important problems of political evolution, and have only had their attention called to the prison system generally obtaining, when they themselves have transgressed the law, and found themselves confined as political prisoners. But even though during the last few years there have been many complaints about prison buildings and prison diet, the questions so raised have in no way touched upon the main problems which face the prison administrator; for most of such complaints have dealt with

the upper grades of prisoners, and not with the common criminal. As a natural consequence, crime has been nobody's concern in India except, of course, that of the administrator and the jail staff.

One of my main objects, therefore, is to show that the treatment of the criminal in India lags far behind the systems adopted and operating successfully in the west. It has been said that one of the acid tests of a country's civilization is its attitude towards crime and the criminal. A purely punitive or so-called deterrent system of punishment has now been proved to be socially wrong and financially wasteful. A prison system is a corollary of a judicial system, and a judicial system, to be worthy of respect, to secure obedience to laws, and to maintain security for life and property must be humane, progressive, and enlightened. It is unfortunately all too true that at the present moment India possesses a system of prison treatment which is in the main based upon old ideas. In origin it accompanied the Indian Penal Code, which, excellent though it was at the time when it was drawn up, cannot be said to have advanced side by side with the general progress of sociological thought. The Code was framed at a time when a universal

standard of law and order was essential for the foundations of any stable sort of government at all. It was stern, but it was capable of country-wide application. The evil-doer knew where he stood : there was the law, and there were the penalties for breaking it. The early British administrators in India had not the time, even if they had had the knowledge, to make provision for different types of criminals, for the psychology of crime and for the ethics of punishment. The laws came down from an efficient, concentrated Government authority ; they were to be obeyed and some kind of order was to be evolved from chaos.

At the time, then, when the present prison system of India was inaugurated, there was every excuse for deficiencies and shortcomings. The Victorian administrator knew little and often cared less for modern social science, and the lead which he gave to India has been one which has not been lightly abandoned. Even today there are Governments in India, and Government officials, who have inherited an attitude towards crime and the criminal which would not be tolerated in any western State.

It is thus essential on the eve of far-reaching constitutional changes in India that some sort

of lead on this subject should be given. There is a danger that, in the first enthusiasms of responsible government, Indian statesmen and politicians may be content, in some respects, to follow along the old lines in order that admittedly more important problems, and problems dearer to their hearts, may be brought into the limelight, discussed and solved. It is easy to imagine a Provincial Assembly concentrating on agriculture, irrigation, economics and education, and it is easier still to imagine the still small voice of the prison reformer being lost in this roar of interests. But someone, sooner or later, must tackle the questions I am going to raise, and must solve them along the lines suggested in these pages. Not that I would, for one moment, claim any particular personal merit either for my experiments in Burma, or for my tentative reforms. I have merely attempted in times of grave financial stringency to preach in and out of season the new spirit of prison administration from my knowledge of the salutary results attained by those responsible for crime and criminals in England, America, and other western countries.

What I have to say—or rather my exposition of the main principles of improvement and reform—has also been justified in my eyes by

the remarkable loyalty, support and response which have been given to their enunciation by my staff in Burma. I have found the new spirit of prison treatment, despite many initial handicaps, to be one which not only appeals to the criminal with beneficial results, but also produces among prison staffs a more enlightened and humane atmosphere. These principles, as I have pointed out, are common knowledge in all the more advanced countries of the world. If I appear to lay emphasis on certain elementary facts, my excuse is that I am writing not primarily for the expert but with the main object of awakening public opinion. There are a host of excellent works dealing with the main principles of the subject, one of the best being the Report of the Royal Commission on Indian Prisons published in 1921 ; but unfortunately I know none which deals specifically with their application to Indian problems as one should visualize them. In this connexion I would claim that while it is true that Burma is not India, the underlying basic facts of the problem in Burma are in the main so much the same as those in India that the experience which I have drawn upon can, I feel sure, be taken as a guide for the subcontinent.

People in authority today should realize the

urgency and importance of the problem. Such realization can only be made fruitful if theory is combined with experience of what is practical and possible. If much of what I have to say seems elementary or destructive, it must be remembered that where ignorance is so widespread, it is essential not only to get rid of old-fashioned erroneous ideas, but also to inculcate the new doctrines in simple, straightforward, convincing syllogisms.

That these warnings and explanations are necessary is obvious from one fact, and one fact alone, about our prison system in India. Our prison departments are the only ones in which an officer is allowed to enter on his duties without any previous training or preparation. It has been assumed that a warder, a jailor, or even a Superintendent acquires in some mystical fashion a complete knowledge of his very complex and difficult duties on the very first day that he assumes his responsibilities. This is bad enough, but it is, perhaps, even more alarming to remember that these officers have in practically every case complete confidence in their ability to deal with one of the most complicated and technical problems that faces humanity. As long as public opinion in India is content to have the criminal handled by this

body of well-meaning and honest ignorance, so long will crime in India and the punitive system be matters involving a vast waste of public money and expenditure of useless effort, and, what is much more important, a never-ending drain of unreclaimed and derelict offenders. Apart from these material considerations, there is, as I have mentioned before, the purely ethical and sociological obligation to treat crime as the doctor treats disease—the production of health by preventing disease, or the saving of the criminal by preventing crime. I must add, of course, that all the views and opinions expressed are entirely personal and made on my own responsibility.

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## I

### THE PROBLEM OF CRIME

**T**HE simplest, most straightforward, and most comprehensive definition of crime is 'a violation of law at a particular place at a particular time'. Where there are no laws, there can be no crime in the technical sense, and in the earliest days of primitive man, when every individual lived for himself and his hand was against his fellow being, law, as we know it today, and consequently crime, had no place in that primitive society. But from the very dawn of civilization in history, laws of one kind or another came into existence.

Agglomerations of individuals formed rules for the preservation of hunting rights, and for what property individuals or tribes possessed. Superstition and custom played their part in enunciating such early laws, and crime, as it first emerges in the pages of history, is nothing more or less than the clash of primitive instincts with primitive regulations.

As civilization developed, as the great law-givers of history arose and held sway, and

as social and religious codes took shape and functioned, crime became more recognizable and more strictly defined. Just as laws have been different throughout the ages, so have crime and punishment varied. A more tolerant age does not hand men over to the stake to be burnt by the civil authorities for religious opinions, although in more recent years the highly civilized country of the United States attempted to penalize the individual for partaking or indulging in a personal gratification. It was an offence to sell alcohol in America or to consume it in a public place. It was no offence in England or in France. Some things are crimes today in certain parts of the United States, and the rightful privilege of its citizens in others. Today prohibition has been partially repealed, and an example has been given to the world of a change in taste as to what ought to be law, and as to what is a crime.

Again, as countries advance in civilization, old laws become obsolete and new laws take their place. The English statute book carries many archaic enactments which have never been repealed. It is still illegal in theory to play certain games on a Sunday, but far more attention is paid to legislation dealing with the growth of motor transport, wireless and

broadcasting, and travel in the air. These developments have constituted new offences, and have enlarged the field of possible crime for the modern citizen.

For the commission of any crime there must be both intention and what is known as the overt act. If a man after attending a party puts on someone else's hat by mistake, no theft has been committed. On the other hand, if with the intention of stealing another man's hat he puts on his own, he has committed no crime. Legally the basis of crime is not to be confused with ethics. Crimes are not necessarily what is known in theological language as 'sins': all sins are not crimes nor all crimes sins. It is a mistake to mix up crime and immorality, and to consider that they are in some way synonymous.

From the purely social point of view, and eliminating all considerations of sin, immorality, or degree of criminality, crime is nothing more or less than the failure on the part of an offender to adjust himself to the social surroundings in which he happens to find himself. It is now admitted that the *raison d'être* of laws is the protection of society at large, and from this point of view criminals are people who for one reason or another interfere with

the protection of society. The so-called freedom of the individual can only be obtained and secured by recognizing limitations upon individual action, and obligations towards other individuals.

Just as in early times the definition of the criminal was loose, unscientific and unsatisfactory, so too has been the history of the causation of crime. In earlier periods quaint, amusing and even ridiculous theories were put forward and accepted to account for any deviation from the normal. At one time crime was ascribed to the direct instigation and intervention of the devil. The ordinary English indictment even during the nineteenth century accused the offender of 'being prompted and instigated by the devil and not having the fear of God before his eyes'. Such important factors as age, motive, intention, and circumstances were not taken into account until comparatively recent years. Divine interposition was considered to be the sole means by which reformation could be obtained, and society's one contribution to help the advent of such aid was the heaping of torture upon torture. Children, lunatics, old women and even animals were not exempted from such remedial treatment

It is obvious, of course, that crime cannot be properly dealt with until its origins and causes are thoroughly understood. Today there exists a much wider and more intelligent appreciation of such causation than was possible to the first investigators in their enthusiasm. We have travelled a long way from Lombroso and his Italian school, who, among other things, insisted that the criminal possessed certain physical characteristics by which he could be easily recognized. Though Lombroso's theory was conclusively disproved by Dr Griffiths and Dr Goring of the English Prisons Department, Lombroso made a great contribution to the study of the whole subject by directing the attention of investigators to the criminal and away from the crime. Since his days a vast amount of research has been carried through, with the main result that it is believed that there is no distinctive physically-identifiable type of persons who commit crime, and that in most cases the commission of an offence is not the result of any one dominant factor, but is due to a combination of factors and circumstances acting in such a way as to upset the equilibrium of a person of more or less unstable adjustment. Unfavourable economic conditions and inferior, stunted or

undeveloped intelligence are now recognized as being factors particularly likely to disturb what might be called the normal balance. This is the main point that has emerged from recent investigation into the causation of crime.

There are other factors, or rather, these two general headings can be analysed further. Poverty is usually associated with crime, though crime cannot always be ascribed solely to poverty, because there are millions living in poverty who live without a thought of crime. There is no doubt, however, and statistics prove it, that crimes of acquisitiveness are the most common, and there is thus a safe presumption that poverty is a strong incentive to the commission of crime and is likely to create a desire for the acquisition of property belonging to others.

Bad surroundings play an important part in helping any tendency towards crime. Where reliable statistics are available, it has been conclusively proved from the personal history of young offenders that this factor is all-important. The lack of adequate control in the formative years, the presence among neighbours of a low moral standard and, in general, existence in lax circumstances, have been shown again and again to be conducive to ultimate and

complete corruption of mind and morals. This bad companionship is perhaps the most powerful cause of crime in the youthful and adolescent. Home training should build inhibitions; but this training is impossible in the overcrowded homes commonly found in cities.

In all towns and cities, and even in rural areas, habitual and confirmed criminals, drunkards and drug addicts are always to be found. They have a peculiar attraction for youth; they always have an audience, with the result that they are always consciously and unconsciously enlisting young and inexperienced boys in the service of crime. It is not innate depravity alone that swells the numbers of recruits. These old criminals can tell a good story, and almost every case of organized crime, such as a dacoity, reveals on investigation how young men have been seduced by the glowing pictures painted by the old hands. The cruel side of it all is that when detection comes, it is the experienced criminals who get away and the young who are caught.

Modern economic conditions with the fluctuation and permanence of unemployment, and voluntary or seasonal unemployment, contribute largely to the causation of crime. Especially is this latter cause prevalent in India. It is



not always permanent idleness, caused by general economic conditions, that swells the figures of crime. During the busy agricultural season of the year crime is usually at its lowest. In Burma, for example, the incidence of crime drops during the months of June to November to rise again between November and May. Nor must it be forgotten, when noting this factor, that the Indian peasant subsists on the narrowest possible margin. In fact, it is surprising that there is not a larger amount of certain classes of crime.

Then again, the general standard of education and literacy is so low, especially in the agricultural districts, that the ordinary restraints of a more developed country are almost totally lacking. Even in the broader sense, it is found that where there is youthful crime, there is often not only defective education in the modern sense, but a lack of the home influence, and the absence of any form of religious teaching. The mental and physical outfit of the youthful criminal always demands investigation. It is often found, when the family history of youthful offenders is looked into, that many of them have either been orphans, or possess but one parent or a step-parent. They have neither had the benefits of any home influence to

speak of, nor any form of religious or moral teaching. In some cases, it is found that though both parents are alive, they have either been too lax or too rigid in the training of their children. There are innumerable instances of such neglected or over-restrained children finding their way, in the end, to prison, where the State has had to perform those duties of correction and training which would have been unnecessary if their parents had discharged their responsibilities properly. It is these cases of abnormal childhood which breed an abnormal mental outlook. Such youths do not distinguish right from wrong, because they do not know what is right and what is wrong. Every action on their part is dictated by selfish motives, and there is no sense of obligation towards society.

Experience in the large cities of western countries has shown that crime among youths is often engendered and encouraged by the lack of opportunities for healthy recreation. This truth is equally applicable to Indian towns. Children practically live in the streets and in the bazaars, picking up the lowest moral standards and the worst social practices. Harmless games in the street soon degenerate into

petty pilfering, and by stages advance to real crime.

Though Lombroso's theories are no longer accepted, it is a fact that mental and physical defects do play a part in the causation of crime. A crippled or epileptic child starts life with a severe handicap. He is one apart, unable to do what other children do, and often the laughing-stock of his more fortunate contemporaries. His nature gets soured, and he begins to feel that grudge against society in general which is at the root of so much crime. Though thousands upon thousands of men and women, physically or mentally crippled, lead honest lives, it is no wonder that some express their twisted and thwarted natures by resorting to a life of crime.

When all these facts have been enumerated, and however important they may be as supplying a tendency towards crime, there is still in existence the mental freedom of the individual which can be drawn upon, his power to resist temptation, and his capability of conquering illegitimate desire. Most citizens have no desire to transgress the law, because they are capable of fortifying their resistance against illegitimate instinct by calling upon reserves provided by training, education, and religion. Even when

desire is strong, and opportunity is at hand for the commission of crime, there is with most people—for after all, crime is abnormal—a power of inhibition which prevents or deters even at the eleventh hour.

It is this power of inhibition, the product of so many indeterminate factors, and the resultant of so many indirect social and moral forces, that must always be kept in mind when dealing with the reformation of the criminal. If it does not exist, it must be created; if it is weak, it must be strengthened.

To sum up, it is clear from what has been stated above that the behaviour which we call crime may be the outcome of many complex factors, and that its causation is either subjective or extraneous, or both. A person with a weak will-power does not need much persuasion to indulge in drink or the opium habit. A study of criminals has shown that most of them are lacking in will-power or the capacity for resistance, as far as the commission of their actual crime is concerned, however strong-willed they may be, or may appear to be, in other respects. This lack of will-power may be the result of one or more of the factors enumerated above. In other cases, momentary temptation is too strong and overcomes the

normal will-power. A man may resist the temptation of illegally making fifty or one hundred rupees, but may not be able to resist the temptation of making a thousand or two. Another man may possess a mind so normally balanced that ordinary provocation may leave him undisturbed, but under certain circumstances some grave or sudden or unwonted incident may so unbalance his mind that he may commit a murder. These considerations are naturally of great importance in judging the degree of criminality of an offender, and, consequently, in prescribing the appropriate and intelligent remedy. It is a subject which must be discussed more fully.

The attitude of the public towards crime has a considerable influence on the amount of criminality existing in a country. Where every citizen looks upon the maintenance of law and order as one of his primary duties, and where law is respected because of the integrity of its administration, the lawbreaker receives scant sympathy. On the other hand, where there is no respect for law and order, or where there are forces operating to alienate the administrators of law and order from the general public, or where law courts are treated with disrespect or with suspicion, the public will

cease to co-operate with officers of the law, and crime is bound to increase. This will also happen where there is a repeated failure on the part of the police to detect criminals and to bring them to justice. It does not matter whether such failures are within or beyond the control of the authorities. The number of a police force may be inadequate, the area they are supposed to protect may be too large, their training may be deficient, corruption may be rife, or they may be out of sympathy with the population. In such circumstances, crime is bound to increase, and it is curious to note that in such parts of the world where this unfortunate state of affairs exists, there is inevitably a tendency to increase the severity of the punishment, in the mistaken belief that by its heaviness alone, punishment meted out to the few will deter the majority from imitating their example. One of the surest lessons of experience, and of modern research into the study of crime, teaches conclusively that certainty of punishment is a far better deterrent than severity.

## II

### THE PROBLEM OF THE CRIMINAL

**N**O one would dream of attempting to treat ailments of the human body without having some considerable knowledge as to the nature of various diseases. It is necessary to classify and examine crime in the same systematic manner, if the whole question of crime and the criminal is to be dealt with in a rational and logical fashion. Anybody who tried to prescribe one kind of treatment for every human ailment would be considered demented, and it ought to be held equally foolish to have the same point of view about every criminal case. Unfortunately this point of view still exists, and it is nothing short of tragic that for the thousand and one sins and sorrows that are dealt with in law courts, civilized human intelligence is, in so many cases, able to prescribe but one stereotyped remedy—the remedy of punishment.

The simplest classification of crime may be based upon two distinct natures of origins. There are crimes caused by circumstances,

and there are crimes of impulse, and both portions of the dichotomy require different treatment. Crimes of circumstances include offences that are the result of stress and pressure of environment, while crimes of impulse are in the main the result of some defect or abnormality in the mental make-up of the offender. In a few cases a person possessing a normal degree of self-control loses his mental equilibrium under some extraordinary provocation. It is as well to remember in dealing with crimes of circumstances that the majority of people would probably fall beneath a similar or equal amount of environmental pressure. With crimes of impulse it is often the case that personal—that is to say, physical or mental—peculiarities lead to the commission of acts which, to the ordinary person, would appear impossible. This rough classification indicates that the cut and dried methods of punishment are neither useful nor just; even the most cursory analysis shows that what might be called 'sensible' treatment of crime is bound to vary even with individuals who have committed the same offence.

The underlying truth of this becomes all the more obvious when it is recollected that the criminal himself is susceptible to classification.



The classification I give below is by no means exhaustive. The types mentioned are not meant to be working in watertight compartments. There are many borderline cases, one type merging into another.

The simple and practical classification, as given by Parmelee, consists of the following classes :

1. The occasional criminal
2. The professional criminal
3. The feeble-minded criminal
4. The insane criminal
5. The evolutive or political criminal

The occasional criminal, as the term implies, commits one or two crimes through force of circumstances. It may be noted, however, that some of these will ultimately become habitual criminals. This class includes the criminal aroused by passion, who is not feeble-minded, but who possesses a somewhat excitable temperament. Such persons commit offences against the person, on what appears to the normal individual to be the slightest provocation. They could not be induced to commit an offence under any other circumstances, and are not criminals in the true sense of the term. Such persons are unfortunately

to be found in large numbers in Burma, which has an unenviable record of acts of murder and grievous hurt.

The second class comprises all those who make crime their profession, such as the criminal tribes of India—the poisoners, dacoits, and thugs—and most habituals of different classifications. Some of this class may be normal and highly intelligent persons, others may be feeble-minded. Some make huge profits by their criminal career, others go on committing petty thefts, eking out a precarious existence thereby. This class comprises the master-minds who have chosen a criminal life, as also those who have drifted into it by force of circumstances.

There is no such thing as a physical criminal type, nor is there such a person as a ‘born criminal’. But amongst criminal persons are found those who are congenitally feeble-minded. Though all feeble-minded persons do not take to a life of crime, some unfortunate persons contribute a good deal to the criminal statistics of every country. It is necessary to recognize this type, for it is often blamed for actions over which it has no control.

The fourth type needs no elaboration. A person who is insane at the time of the

commission of the offence is rightly not held responsible for the act and is treated in a mental hospital.

It has already been seen that the criminal is usually the product of a combination of factors. The two main divisions of these operating influences are those that are present in the man himself, such as weak will-power, or crude incomplete ideas of right and wrong, and those that are mainly contained in his surroundings, such as bad conditions of living, and evil companions. These factors, moreover, are interlocked, bad environments producing crude ideas of right and wrong. If these facts are considered along with our rough classification of crimes, it is obvious that what really matters to the student is to discover what has been described as the 'dangerousness' of the man who has committed an offence. The old school of thought laid stress upon the crime itself. Two men committing a theft were regarded as equally dangerous, equally offensive to society; and so for both the punishment was the same: it did not matter what personal factors might have existed. This view is now generally held to be erroneous, and the modern method is to study the offender more than the offence. It is possible that in the case

just mentioned the proper treatment would be merely to warn or discharge one man, or to put him on probation, while in the case of his companion true justice, as well as scientific treatment, might only be satisfied with a long term of imprisonment.

It is in accord with the methods above outlined and with this modern attitude that nowadays it is held that though there is no such thing as a 'born' criminal, there is such a thing as a confirmed criminal, the paradox being explained by the fact that the confirmed criminal is not born, but is mostly made by society and by society's treatment of him. If, instead of calling such a man a criminal type, we called him the 'prison' type, we should be getting much nearer the truth, and beginning to distinguish the real obligations of society. Repeated periods of imprisonment, and unintelligent treatment while in prison, force a man to acquire a certain outlook on life, and an attitude to the world, which with a hostile mental complex gradually work a transformation in his facial features as well as a kind of physical malformation, mostly expressing itself in a sort of slinking slouch. These facts are probably the real truth behind the generalizations of the Lombroso school.

If we take the habitual criminals, there is no doubt some ground for the generalizations laid down by the Italian criminologist, but more modern research, chiefly conducted by Dr Goring, has proved that the average convicted man is physically as normal as the free citizen. It is only when a man is brought up in debased surroundings and criminal environment, and is experienced in prison life, that some facial and physical change takes place. Indeed, it is a change which would happen in similar circumstances to almost anybody.

It follows from an acknowledgement of the existence of classes of prisoners, so clearly differing in degrees of 'dangerousness', that it is the bounden duty of the State to prevent its treatment of criminals in and outside prisons from disseminating crime or knowledge of crime, and from offering opportunities for the contamination of the young and inexperienced offender. It is no use giving intelligent sentences if the juvenile criminal is to be placed in closest contact with past masters of crime. These two classes must, therefore, be separated during imprisonment. The best way, indeed, would be to have separate prisons for first offenders and for habituals. This would perhaps be the ideal arrangement but, of course, there

are considerations of expense which make it difficult for the authorities to carry such a scheme to its logical conclusion.

In Burma there have been two large central jails for first offenders only. There have also been two other jails where only habituals have been kept. The practical difficulties of carrying out such strict separation completely were great. Where jails are adjacent the matter is comparatively easy. But where jails are far apart, not only is the expense of transporting prisoners heavy, but there is also considerable difficulty in obtaining police escorts. Also when sentences are short, as they often are in the case of both casuals and habituals, the administration is often inclined to wonder whether it is worth while incurring the expense and the necessary trouble. On the whole it might be better if every jail were divided into two entirely separate sections with separate accommodation for living and work. The expense of reconstructing Indian jails according to this plan would possibly be heavy, but it would not be a recurring charge. The Government could console itself with the thought that the reduction in transport charges would probably pay for such buildings in the course of a few years. A recently constructed jail in Burma

(Tharrawaddy) has been built on this plan, and has proved a complete success, demonstrating the wisdom of separating the first offender from the habitual criminal.

The above generalizations roughly indicate the immediate problem before the would-be reformer of the Indian prison system. The problem is how to cater for intelligent diagnosis of crime and the appropriate treatment for each individual case. It is clear that, among the thousands of convictions for theft every year, there are rarely two cases in which the complete circumstances, relevant to punishment or remedial treatment, are identical. There are hundreds of cases of grievous hurt and murder. In each individual case the facts are peculiar to itself, and so though the problem is simple of solution in theory it is extremely difficult in practice. And the ideal answer must, in present conditions, be postponed to the future. Meanwhile the best that can be done is to lay down sound principles and lines of development, and to reconstruct the basis of the prison system in such a way as to ensure approximation in the future to what ought to be.

The authoritative compilations which prescribe the methods of dealing with criminals in

India are defective. When the Indian Penal Code and the Criminal Procedure Code were compiled, they were far ahead of their times and of the state of civilization reached by the country. Old and barbarous methods of dealing with the criminal were ruthlessly swept away, and slowly but surely new and more humane methods were introduced and insisted on by a system of efficient supervision and revision, exercised by competent, independent higher courts over lower ones. But however excellent the system administered by the criminal courts of British India may be, and however favourably they may compare with the courts and systems of many other civilized countries, there are still obvious gaps in our criminal law which might have been filled years ago. The existing laws serve their purpose excellently up to a point, but the good that they have done needs to be supplemented by removing some obvious defects.

The Penal Code deals with the crime more than with the criminal, and there has always been a tendency in its administration to deal out stereotyped punishments for the same offence. For instance, in Burma the average and usual punishment for theft is two years, a fact mainly due to the preponderance of



cattle theft, and a laudable desire to suppress what is a serious social evil in an agricultural country. But these sentences of two years are given irrespective of any extenuating circumstances, which are bound to exist in particular cases. Cases of dacoity are awarded nothing under five years, irrespective of the age of the offender, his capability of understanding the seriousness of the offence, his 'gullibility', or any other mitigating factors.

The Penal Code also does not make any allowance for age, or for the mentally defective, as apart from certifiable lunatics. Nor does it prescribe any appropriate treatment or remedy for the incorrigible or habitual criminal.

One would suppose that the administration of criminal law in its essential aspects was a sufficiently important subject to be dealt with by the Central Government, and yet it is found that individual Provinces enact their own laws for the treatment of child and juvenile offenders. There ought to be a central authority directing the principles and practice to be followed in dealing with this particular phase of crime.

The laws of India only recognize two categories of human beings, the sane and the insane. The mentally defective person, on

whom, during recent years, so much attention has been concentrated in other countries, is unknown in the Codes.

There is no recognition of the importance of preventing the contamination of young offenders by avoiding imprisonment. The excellent probation system of other countries, which has worked such wonders with first offenders, especially young offenders, is still waiting to be generally adopted and made use of.

The incorrigible habitual still makes himself a public nuisance by his ever-recurrent visits to jail. He is a nuisance to the police, to the judiciary, to the Prisons Department, besides being a constant danger to the law-abiding citizen. He is a constant drain on the taxpayer, and a vast amount of time and labour is wasted on him in the old-fashioned hope that repeated periods of imprisonment will teach him the error of his ways. He has not yet been made the subject of the modern remedy, namely, preventive detention for prolonged periods.

### III

#### THEORIES OF PUNISHMENT

**M**ODERN theories of dealing with offenders, both young and old, are based on a more humane and intelligent understanding of the theory and practice of punishment.

Under the Penal Code, punishments vary from a small fine or release on security, to transportations for life—which is really rigorous imprisonment for life—and the death penalty. Behind them is no real philosophy, no real urge to redeem an offender, but merely an ever-increasing measure of severity, promulgated with the object of striking terror into the heart of the evil-doer. Macaulay drafted the Code in accordance with the ideas and requirements of his time, and it has served an admirable purpose in the administration of justice. But it does not require much thought to see that in these days, when there is in existence a different theory as to the duties of the State, this system will not bear examination for long. The paternal State should act as a father does in a family. If you ask an ordinary person

how he would deal with his child, when he has been mischievous or badly behaved, he would have no hesitation in saying that he would first of all use mild measures, and only when such measures failed would he use corporal punishment. The mild measures would ordinarily take the form of an appeal to the child's good sense, and a sensible heart-to-heart talk. Practically every parent would agree that the use of the cane for trivial first offences would be barbarous and foolish. Yet there are many such parents who if asked a similar question about a fellow citizen who had committed a first offence of a not very serious nature, would probably agree in the award of imprisonment or even a touch of the birch. There are countless people who do not appear to be capable of thinking along any other lines when discussing the question of other people's offences. Parental feelings are kept solely for home display, and yet there is no conceivable reason why the parallel I have drawn should not be carried into action. The average parent when he judges the misbehaviour of one of his own children usually wishes to be fair and just. He is actuated by sentiments of love and pride. Indeed, he sees himself in the child. He is anxious to weigh

carefully the seriousness or otherwise of the offence committed. He is anxious to see that undue harshness, or unjust treatment, do not make his child more secretive, more deceitful, more untruthful.

The misbehaviour of a fellow citizen is rarely dealt with in a similar fashion. Such considerations as guide the parent seldom affect the average man. Hence there is an untold amount of loose talk about how to deal with criminals. Modern methods of dealing with offenders do nothing more or less than put into practice the analogy of the father and the child. Such methods contemplate the careful consideration of all the factors involved. Their aim is the due protection of the public and the true welfare of the offender.

Our method of dealing with criminals is in many ways the measure of our own civilization. One often hears in the east the fatuous argument that enlightened methods of dealing with criminals and prison reform are unsuitable to semi-civilized and illiterate peoples. If you ask these people why they do not adopt the old-fashioned barbarous methods of torturing suspects, of chopping off their limbs, or of gouging out their eyes, they rightly claim that a civilized government could not countenance

such medieval atrocities. They seem to forget that this is a complete answer to their own criticism.

There is no mystery about these modern methods of dealing with criminals, and there is no need to be squeamish about their application to India. All that it is proposed to do is to give intelligent consideration to the individual and sensible treatment in each case. We are dealing in India with human beings just as other countries are. Love of our fellow men, forbearance of their shortcomings, an intelligent appreciation of all surrounding circumstances, and an urgent desire to help any unfortunate men, are the underlying principles of all modern legislation. There can be no reason why an Indian should not respond to the application of these axioms just as much as a European or an American. If there is to be any difference, it can only be in details and not in the principles.

When we start to apply these principles, the first point to bear in mind is the paramount necessity of looking upon imprisonment as the last, and not the first, resort in dealing with an offender. Especially is this true if it happens to be a first offence and the offender a young man,

Incarceration even in the best-managed prisons has certain grave drawbacks, and the longer a man is subjected to prison conditions, the greater is the harm he is likely to suffer. A prison must necessarily have concentrated in it men of bad character. Thieves, robbers, burglars, dacoits, murderers, and prisoners who have been convicted of cheating, embezzlement, and sexual offences, are all to be found in any moderately large prison. A comparative novice in crime is in real danger of contamination from the old stager. The constant association with confirmed criminals affects the mentality of the newcomer. He learns that there are cleverer men than himself, and he gets to know their methods—the tricks of the trade. And he listens to stories as to how he can persevere in his life of crime and, with a bit of luck, avoid detection. What is more serious, he is taught to belittle the gravity of his misbehaviour. There are instances, too, of plots being hatched inside a jail by gangs formed in prison.

When a first offender enters prison, he is in most cases genuinely sorry for what he has done, but unless he is completely separated from the more experienced hands, he soon forgets the contrition and repentance he was inclined to feel. One of the worst effects of

bad company in jail is the loss of the finer instincts which the average man possesses. A prisoner gets more and more depraved, more callous, and at times definitely cruel in his outlook.

Again, a prison is an institution where a prisoner has to submit to rigorous discipline. He has to obey whatever orders are given him. He has to eat, work and sleep, when and where he is ordered. He has no responsibilities as an ordinary citizen. He has not got to look for his daily bread, nor is he responsible for the sustenance and protection of his family. If this process goes on for any length of time, the result is disastrous. A man comes out of prison a useless member of society, incapable of exercising his ordinary mental functions, a burden to himself, to his family, and to the State. He suffers from what may be described as 'disuse atrophy' of his mental faculties, and is not unlike one of Čapek's 'robots'.

It is easy to see why the argument in favour of avoiding imprisonment, if it is possible to deal with the offender in some other way, without doing harm to him or to society, has appealed with so much force to sociologists. Even if imprisonment is necessary, a prolonged stay in prison should be avoided. If men are



to be returned to society as useful members there should be alternatives to imprisonment, and a generous and intelligent employment of such substitutes. It must not be forgotten that a single sentence robs imprisonment of all its deterrence.

If, therefore, it is possible to correct and reform an offender without submitting him to the influences of a prison, it is the serious duty of the State to do so. In subsequent chapters we shall discuss at length some of these important alternatives to imprisonment.

## IV

### THE PROBATION SYSTEM

ONE of the most successful measures that have been adopted in western countries as an alternative to imprisonment in suitable cases is what is called the Probation System. The system is generally applied to first offenders, especially when they are young and their offence is not serious. Courts, however, have full discretion in this matter, and the system can be applied to any persons to whom the court considers it will be suitable. I have seen in England a young offender released on probation, after being convicted before a judge and a jury for what is called an indictable offence, one which in India would be equivalent to a sessions case.

Probation is a postponed sentence. The sentence is not fixed at the time the accused is enlarged on probation. The accused, after conviction, is placed under the supervision of a probation officer, for a prescribed period, instead of being sent to jail. He is free to follow his ordinary life, but on conditions

imposed by the court. These conditions vary, but are mainly intended for the protection of the offender himself. The chief conditions are :

1. that the offender is to obey such instructions as the probation officer may give and to inform the probation officer of every change of address ;
2. that he is to take up some honest occupation ;
3. that he is not to associate with bad characters, and
4. that he is not to commit any offence whatsoever.

The court, of course, has powers to impose any additional conditions it likes.

When the accused has agreed to the conditions imposed, he is placed in charge of a probation officer, who acts as his guide, friend, and philosopher throughout the period of probation, and in many cases even after. A probation officer helps his ward to obtain suitable employment if necessary. He pays frequent visits to the young man so that his influence is constantly available to counteract the effects of any evil forces there may be about, and to give the accused the necessary

and often lacking moral backbone. It is also the duty of the probation officer to see that the conditions imposed by the court are carried out. A serious breach is immediately reported, and the court then proceeds to pass the postponed sentence. In countries where the probation system has been tried under favourable conditions, figures show that failures have been few and far between. This is a convincing testimony to the practicability of the measure, and to the efficiency and beneficent zeal of the probation officers.

A certain amount of opposition to the introduction of the probation system in India has originated in the idea that the provision which allows courts to release first offenders on security (Section 562, Criminal Procedure Code), is equivalent to the western system. This is a completely erroneous idea. The section referred to has practically nothing in common with the probation system, which presupposes the existence of a Probation Officer making periodical visits to the accused, and keeping him under close supervision. This officer is the backbone of the whole system, and the Indian law provides for no such thing. Under the Procedure Code the accused and his surety sign a bond and then disappear. It is

nobody's business to know what the offender is doing and he may quite well be carrying on with his criminal career, or associating with criminals, without the court knowing anything about it, or being likely to know anything about it. In fact, the court may only discover what has been going on when the man reappears to face a more serious charge. Such a result is almost impossible where there is the supervision of a probation officer. These men are able to guard their ward against evil influences, and it is well known that they do not hesitate to report to the court if they fail. There is, of course, a certain amount of danger, as there must be in all such measures, in letting off an offender, but such danger is reduced to a minimum by the constant vigilance of earnest and experienced officers.

The more practical questions which really occur, when it is contemplated to introduce the probation system, may be given categorically as follows :

1. How are we to know that the system will be successful, and is there any guarantee that a measure that has been found useful in Europe will be beneficial in a country conditioned like India ?

2. Will it be possible to get men and women of honesty, integrity, and firmness to act as probation officers ?
3. Where is the money to come from to pay such officers ?
4. How are we to know that the system will not lead to an increase in crime ?

It is always difficult to prophesy exactly what measure of success will attend any reform, and it is also true that what may have been successful in one country may not prove to be so in another. But that is no argument against giving a fair trial to a reform for which *a priori* as well as *a posteriori* there is a good deal to be said. Human nature is much the same all over the world, and if the principles underlying the probation system are sound, there is no reason why it should not be successfully introduced into India. It is impossible to say whether it will be more or less successful in India than in western countries. Probation has had such far-reaching results in the west that it ought to be tried, and tried seriously, in the east. India has before her the great example of other countries, and the far-reaching moral and social results attained by them. There is no reason whatever why the system

should not succeed in India, the basic forces influencing human nature being the same all the world over. My own experience, especially with regard to the revision of sentences, has made me thoroughly convinced that given favourable conditions, a sound foundation, stout hearts, and the assistance of public-spirited men and women, the probation system will be as successful in India as it has been in England.

I cannot see why the introduction of probation should be opposed because doubts are entertained about good and honest probation officers being found. No country has the monopoly of honest and earnest workers, and social work involving a high degree of self-sacrifice is not unknown in the east. Our old Indian civilization proclaims service as the whole basis of society. Teachers, doctors, and members of the other learned professions used to work for the good of humanity without any thought of monetary reward. Though times have changed, I am sure this noble idea of service is only dormant, not extinct. In England the court missionary has become in most cases the modern probation officer. Anyone who has seen their work knows how essential a part they are of English justice, how

they devote their whole lives to rescuing the flotsam and jetsam of humanity. Their example and attainment make us realize that India will have to follow a high ideal. But India, too, has religious and social agencies from which to draw a similar personnel. I refuse to believe that institutions such as the Servants of India Society, the Ramkrishna Mission, the Arya Samaj, and the Seva Sadan could not produce an adequate supply of probation officers. I am certain that when called upon these bodies of altruistic men and women will cheerfully respond to the call of social duty. And even in the villages there will be retired Government servants, schoolmasters, Hindu priests, *moulvis*, and Buddhist monks ready to lend a helping hand.

It is unfortunate that every reform in India, at least under the present Governmental system, is judged primarily from a financial point of view. If the institution of the probation system were to add to the existing expenditure on prisons, it would certainly receive little official sympathy, and it might be difficult at the present moment to find the necessary funds. But a good case can be made out for the system on the grounds of economy. If it were introduced, then beyond the salary of



the probation officer and out-of-pocket expenses distributed over as large a number of offenders as he can conveniently supervise, there is no expense to the State. In cities and towns a probation officer on a salary of Rs. 200 or 300 a month can look after one hundred offenders. The expense to the State would be two or three rupees a month per prisoner, or Rs. 40 a year at the most. As the average cost of a prisoner in jail is over Rs. 100 a year, there is room here for considerable economy. Even in the villages, where the number to be supervised would be small, ten or fifteen rupees per head per year, for part-time probation work, would mean a saving. The main direction from which economy would result will only be seen when the system is in full swing. Probation aims ultimately at the prevention of crime, and so automatically reduces the prison population, and the number of recidivists. In England, probation, along with other kindred measures, has reduced the prison population by half in a few years. If the same happy results were gained in India, the saving to the State would be enormous.

There remains the fear that a probation system would encourage others to commit crime and increase the number of criminals.

The answer of experience is that this is not so. Probation is seldom tried in the case of serious crimes. Though there is nothing to prevent the court from placing a man on probation for a second or third offence, it is usually only done when the court is satisfied that the offender is young, inexperienced, and not a confirmed criminal. The alternative to probation is a short term of imprisonment, and all the authorities are agreed that such short terms not only do no good, but in many cases do incalculable harm. Such terms are too short for the carrying out of any systematic training, and what mostly happens is that the man is subjected to all the dangers of prison life, to which I have already referred, without a corresponding gain. A census taken in Burma recently showed that there were about 6,000 prisoners with a sentence of three months and under. Very few of these offences could have been serious, and certainly very few of the offenders could have been, or were in fact, habituals. I am confident that it would have been far better to have placed most of these cases on probation and to have given them another chance.

The probation system is without doubt one of the most beneficent measures of penal

reform originated in modern times. Until India undertakes the introduction of this system, pushes through the necessary legislation, and makes provision for the machinery to put it into practice, one will have to deplore the existence of a serious gap in the country's penal system, and the loss of a magnificent opportunity for reclaiming those who are our fellow citizens even though they may have transgressed against the law.

## TREATMENT OF YOUNG OFFENDERS

THE analysis of the causation of crime and the analysis of the categories into which the average criminal falls apply irrespective of age. It follows, therefore, that the main lines of penal treatment for youthful offenders will be similar to the outlines I have already given. The great difference in the problem of the young criminal arises from differences in physical and mental development. It is clear, for example, that a child of ten cannot be treated in exactly the same way as a boy of seventeen. The generalization, which it is all-important to remember, is that the younger the offender the greater the care he needs, and the more tactful and sympathetic has to be his handling.

The first important point to be emphasized in dealing with young offenders is that of rigid separation according to age. It is not only necessary to segregate youth from the adult, but also necessary to recognize different age categories among young persons themselves. It would be just as foolish to allow a boy of ten

to mix with boys between sixteen and twenty-one, as to allow the association of a youth of eighteen with a criminal in his thirties. It would also just as effectively defeat those principles of penal reform of which I am an earnest advocate.

The reason for this careful segregation is obvious. Youthful minds are immature, and the younger the person is, the more easily mouldable he is, and the more careful one has to be that no evil and noxious influences are allowed to operate, and so undo any good effects that the adoption of new methods may have. There is a Gresham's Law in crime. It is not a case of bad money driving out good, but of a small evil factor entirely upsetting what may appear to be a powerful combination of ameliorating influences.

Association with older criminals is the worst thing that can happen to a youthful offender. This must be guarded against at every stage of the proceedings. When a young offender is arrested, he should not be put into a police lock-up ; in fact, every effort should be made not to confine him at all. For this purpose, wherever possible, and certainly in cities and in towns, there should be established what are called 'remand homes', for the confinement

of these young offenders. These homes should be in the charge of an elderly person and his wife, so that the children may be properly looked after, and put at their ease.

The next stage is the production of an offender in a court, and his trial. Under-trial prisoners are usually kept in lock-ups or cages at courts while they are waiting their turn to appear before the magistrate. Young offenders should never be allowed to associate with older ones in these court lock-ups. It is far better, in fact, not to try children and young persons in ordinary courts. Special children's courts have now been recognized as essential by all civilized countries, but this is not enough. They should be in a separate building altogether, and an excellent arrangement is to have such courts in the same building as the remand home. This is done in Calcutta, and serves the twofold purpose of having a separate court for young offenders, and of doing away with the ugly and unsatisfactory necessity of taking them to and fro under custody.

The subject of dealing efficiently with juvenile crime is so important, that it is a matter for regret that steps have not been taken to secure a uniform Act for the whole of India. The problem requires special legislation dealing

with treatment before, during, and after conviction. What has happened in India is that legislation has been left to the different Provinces, with the result that in one or two Provinces juveniles are dealt with in a more or less efficient manner, while in others a great deal remains to be done. Such legislation is rightfully termed 'Prevention of Crime Acts', for the intelligent treatment of young offenders is the best and surest method of reducing the number of adult criminals and habituals. Legislation dealing with the subject should cover the following points :

1. The necessity of entirely separating juveniles from adults.
2. The provision of Remand Homes before and during trial.
3. The provision of Children's Courts.
4. The provision of means of dealing with the offender other than by treatment in an institution.
5. The provision of Training Schools.
6. The provision of measures to regulate the period of licence after training.
7. The recognition of the necessity for after-care, supervision by unofficial bodies and the provision of means

to encourage such bodies with financial and other assistance.

A Prevention of Crimes Act should be so comprehensive that it provides for all the different classes of young offenders. A good example of such an Act is to be found in the Prevention of Crime (Young Offenders) Act III of Burma, 1930. This Act deals with persons up to the age of 21. It provides for the training and care of young persons who by their circumstances are likely to enter upon a life of crime ; the custody, trial and control of young persons who have committed offences ; and for the punishment of offences against young persons. Under this measure nobody under sixteen can suffer the death penalty or transportation. Persons under sixteen cannot be sent to prison without a certificate by the court to the effect that the offence is so serious or the offender so unruly, or depraved, that the methods of dealing with him provided by the Act are not suitable.

A person under sixteen can be discharged after admonition, or fined, or whipped, if whipping is legal under any other law. In other cases a 'custody order' is issued committing the person to the custody of his parent, guardian, adult relative, or other trustworthy person. In the last resort the person is sent



to a training school. It may be observed that a conviction under this Act is not a disqualification, and no stigma is attached to the offender, as happens in the case of adults sent to jail.

No person under fourteen can be dealt with under the 'security sections' of the Code of Criminal Procedure.

Provision under the Act is made for the protection of persons under fourteen from circumstances conducive to crime, and for the treatment of uncontrollable children under fourteen. The liability of the parent or guardian of a person under sixteen is recognized.

For persons between sixteen and nineteen slightly different treatment is prescribed. For offences for which ordinarily an adult would be sentenced to imprisonment, a young offender between 16 and 19 is sent to a training school, which in this case is called a Borstal School (Borstal being the place where such a school was established for the first time in England). The period of training in a Borstal School is not less than two years, during which period the person undergoes hard training as prescribed by the rules.

Under the Act provision is made for licensing out boys with trustworthy persons, if the

committee of management is satisfied after 18 months' training that the inmate is fit for discharge on licence.

It will be seen that one of the most important methods of treatment prescribed in this Act is the establishment of what are commonly called Borstal Schools. They are institutions exemplifying the same ideas of solicitude on the part of the State as lead to the establishment of childrens' courts, reformatory schools (now called training schools) and the probation system. They complete the process by which the State recognizes that it is dealing with persons of immature minds, and that allowances must be made for the ignorance of young offenders and their shortcomings. They also represent an attempt by the State to try to supply the deficiencies caused by environment and upbringing, and they try to correct both the physical and mental defects of the offender.

Instead of sending a young person to jail, with all the attending dangers of such a punishment, he is provided with a school and not a prison for his physical, mental, and moral training. One has only to visit one of these institutions during working hours to see at once the tremendous difference between it and a prison. The whole atmosphere of a Borstal

School is one of cheerfulness and optimism. There is no room there for despair, sulkiness or gloom. In a well-run and well-regulated training school, the staff and the inmates work together earnestly and cheerfully towards the same goal—and that goal is the reclamation of the juvenile offender.

Some people have the erroneous idea that because the institution is called a training 'school' the inmates are given an easy time. The truth is far different. A day's work in a Borstal School is often far harder than a day's work in a regular prison. The rules provide for a working day of eight hours, and after that there is instruction in various subjects. It is true that in a training school boys are allowed to play games, but such games are an essential part of their training. Through them boys are trained in discipline and in team work, and are introduced to the idea of sportsmanship.

The governing idea of these training schools is to bring out something valuable, which is already within the boy, by practical guidance and sympathetic treatment. The boy is made, encouraged, and shown how to work out his own salvation. He is taught to work hard, and to enjoy working hard, as he progresses

from stage to stage. He is made to realize that the higher the grade he reaches the harder he has to work, and that every privilege he wins carries with it a responsibility.

I have often been asked what is the result of such training. I remember being asked on one occasion by a member of a committee which was considering the financial aspect of the Burma institution: 'Will you guarantee that every boy who passes through a Borstal School will never commit another crime?' It must be admitted at once that there can be no reformatory penal scheme which can guarantee a hundred per cent success, and these training schools for young offenders are no exception to the rule. There are, and will be, black sheep among young offenders just as there are among adults, and a certain number of boys who pass through these institutions are bound to be failures. But as long as the majority of them turn out to be good citizens the main object has been attained. In England the successes are reckoned as between sixty-five and seventy-five per cent. We have not had sufficient experience yet in India to be able to give accurate statistics of failures and successes, but from what I have already seen of such training in Burma, I have no hesitation

in saying that our boys will not lag behind those of other countries. In any case, I am certain that it is very much better to err in the direction of leniency, than be a party to the continuation of the old system, and the perpetuation of the dangers resulting from herding young offenders with confirmed criminals.

I have already referred to the way boys are treated in these training schools. It is instructive to note how they progress by stages from one grade to another. At first, the work given to a boy is of an irksome nature and no games are allowed. Such a boy in his first grade, seeing other boys playing games and enjoying privileges, naturally inquires why he cannot do the same. He learns from the other boys that they have had to pass through the first stages, and that it was only by dint of hard work and good behaviour that they rose to a higher grade. Each boy is thus taught that every privilege in life has to be earned. It is found that, at first, fresh arrivals are sulky and rebellious, but when they see other boys working cheerfully, and when they understand that the members of the staff are anxious and willing to help them in every way, they soon imbibe the atmosphere of the institution, and learn to emulate the example of the senior

inmates. Reformation thus comes by the time the boy is released on licence. This period on licence is regarded as a period of trial: if the boy stands the trial successfully he is definitely released; if the period of trial is a failure he is brought back to the school for further training.

These training schools and institutions would not be complete in themselves unless they were supplemented by careful attention to what is known as 'after-care'. The boys released may have the greatest desire in the world to lead an honest life and to be useful citizens, but if upon their return to society they cannot secure employment, or a decent home, all the good that has been done may be wasted. It is therefore most necessary that some philanthropic body should exist in every Province ready to undertake the task of looking after boys released from training schools. Such work should be encouraged by the Government and by the public in every possible way. Every boy prevented from relapsing, or slipping into a life of crime, is an economy to the State, and a contribution to the general protection of society.

While on this question of the juvenile offender I would urge the adoption of a more broad-

minded attitude in regard to the 'juvenile adult'. There is no question but that in the east people develop physically earlier than in the west, but mentally slower. This is partly due to the fact that education is generally more advanced in the west than in the east. As criminal behaviour is largely a mental process, we can safely say that most young people between the ages of 21 and 25, and especially those who come from villages, are mentally undeveloped. They are, therefore, still amenable to the moulding process which is so beneficial to younger offenders. If it were possible to have institutions to cope with these young adults, at which training on modified Borstal lines could be given, nothing but good would result. I am also convinced that similar treatment could be meted out to the first offender, of whatever age he may be. We have, perhaps, not yet arrived at the stage at which such measures can be extended to all these adults. Such an experiment would mean a large increase of institutions carrying out the Borstal principle, but I am certain that the time will come when such training will be an essential part of our penal system.

## VI

### PREVENTIVE DETENTION

**J**UST as modern methods are distinguished by probation as the appropriate treatment for the young first offender, so is preventive detention the reform which now holds the field as the correct way of dealing with confirmed habituals. Every country possesses a number of apparently incorrigible and habitual criminals, the despair of the police, the judiciary, and the prison department. Most of such men live in a vicious circle. They alternate between short periods of freedom, and the usual process of falling into the hands of the police, thence through the criminal courts to prison. This goes on time and time again, till those who have to deal with such men begin to wonder whether they are fit for freedom at all. I am not here concerned with the circumstances that produce such individuals. They may be victims of circumstance, or they may be so depraved as to give grounds for the suspicion that their evil deeds are not far removed from mental deficiency. The fact I am starting



with is a simple one : that such persons do exist, and that the sentences passed by courts have apparently no effect upon them.

At first sight, it would seem as though a good case could be made out for the use of the indeterminate sentence as the only treatment for men of this type. But to take away a man's liberty, perhaps for the rest of his life, is such a serious step that it ought not to be considered until every other possible avenue has been explored, and until it has been fully proved that nothing else is adequate to the problem. In this matter I think we can learn from the English system, which has adopted a compromise known as 'preventive detention'. As the phrase implies, a person is detained in a special institution as a means of preventing crime. In the majority of cases, the people detained are incorrigibles, about whom, nevertheless, the authorities still entertain hopes of eventual reclamation. The detention is for prolonged periods under evolutionary conditions, working through various degrees of freedom. The aim of the system is that even these individuals may come to their senses and lead, at the end, comparatively honest lives.

Preventive detention is awarded in England

as follows. The Prevention of Crimes Act, 1908, authorizes courts to order an offender to be confined in an institution for preventive detention for periods varying from five to ten years, and dating from the time he has completed his substantive sentence for the last offence or offences for which he was tried. In other words, when a judge finds, after the verdict of a jury, that the man in front of him is a habitual criminal, he has powers, in addition to awarding a sentence, to order that after serving it the man undergo strict supervision for at least five years, and with a maximum of ten years. During this period, the criminal's only hope of release is to acquire habits of industry and to learn to behave himself in such a manner that the Visiting Committee or the Board of Inspection is satisfied that he is fit to be released. Even when he is released he is only set free under conditions which amount to 'ticket-of-leave'.

Institutions for preventive detention differ from an ordinary prison. The prisoner has to pass through various stages. He can earn promotion from stage to stage, and each stage carries more freedom and further rewards. If the prisoner behaves himself he earns, during the whole time he is an inmate, a certain amount

of money, in the form of daily wages, and certain gratuities. After he has worked satisfactorily inside the four walls of the institution, he is allowed to work outside on an allotment. Though he is still working under the supervision of a prison officer, such supervision is of the lightest; for every effort is made to accustom the man to work 'on trust'. The produce of his allotment is bought by the authorities at market rates, and the amount is credited to the prisoner's account.

When this stage is completed and after careful, prolonged, and satisfactory observation, the Visiting Committee can order the promotion of the man to a higher grade, which carries with it such substantial privileges as working without supervision. The last stage is called 'the probationary stage', and precedes release. In this grade the man, instead of being confined to the main buildings, is given a 'cabin' outside. He goes in and out of this little home as he likes, and works entirely without supervision. If he passes this stage satisfactorily, he is released on the recommendation of the Committee. Even then he is not allowed to return to society without help and assistance. He is released on parole, and officers of the Prisoners' Aid Society take charge of him, and are willing and

anxious to give him every help to establish himself as an honest member of society.

If we exclude the colonies of criminal tribes, there is as yet no such thing as preventive detention in any part of India. The system has worked with considerable success in England, and is overdue for adoption in some form in India. We have our fair share of incorrigible criminals, and while all authorities are agreed that it is extremely difficult to reform them, there are many who urge that it is not completely impossible.

To the criminologist, the confirmed habitual is an interesting individual. When he is admitted to jail, he settles down at once with a certain degree of comfort. He knows all the rules and regulations, all the 'ropes' of prison life, and takes good care not to fall foul of the prison authorities. Most habituals are scrupulously clean in their habits, and superficially they appear to be among the best behaved of a jail's prisoners. At the same time, they are often the most dangerous. Their knowledge of prison life enables them to be at the bottom of all kinds of mischief without directly involving themselves. Their apparent and consistent good behaviour creates in the minds of the prison staff a false sense of security, and it is

quite easy to entertain the suspicion that they have reformed. But this, under present conditions, is rarely the case. They serve their sentence, and leave prison totally unrepentant, to be back again within a surprisingly short time. These are the men who, all over the world, inflate criminal statistics, either by their own periodic convictions, or by their influence, both in and out of jail, on less sophisticated younger criminals. The worst feature of the habitual criminal is that he helps to manufacture his kind.

In a way, the most logical conclusion to the problem of such men is that they should never be released. That solution, however, as I have pointed out, is a last resort when everything else has failed, and, at the present moment, the arguments in favour of trying preventive detention or some similar scheme are overwhelming. It is not necessary for India to adopt *in toto* the English system. The English system is an expensive one, and India is a poor country. The two main points we must secure are the segregation of the individual under prolonged observation and keeping him busy at the work of earning his daily bread. It is possible that Provincial Governments may learn how to effect the best Indian compromise by

studying in greater detail the way in which the Salvation Army manages its colonies for criminal tribes. The Salvation Army's work in this respect is worthy of the highest praise. By dint of example and precept, and by kind, tactful and patient treatment, they have converted some of the worst hereditary criminals of India into honest citizens. The best testimony I can give to the work done by the Army is to recall the fact that members of these tribes are from time to time removed from the list of habitual criminals by the local Government officers.

In order to enable Governments to detain incorrigible habituals, even in colonies based upon the Salvation Army model, legislation would no doubt be necessary. But once such legislation was passed, and a colony or colonies started, an enormous amount of good both to the community at large and to the criminals themselves would, I am certain, speedily result. By segregating the most dangerous criminals, effective measures would be taken to safeguard life and property, and by enforcing industry and good behaviour, without the rigours of a prison life, the incorrigible habitual would be materially helped to regain self-respect, and to become an honest and useful citizen. Our crime

figures would be bound to fall, and there would be a general saving of money, time, and labour.

Bearing in mind that such colonies would be a kind of half-way house between prison life and freedom, I am strongly of the opinion that the work undertaken should be of an agricultural nature, with simple cottage industries added. Life in a colony should be a preparation for a normal mode of living, and accordingly a prisoner should be encouraged to bring his family to live with him and to work along with him. If a man so desires, he should be allowed to remain on the colony permanently as an ordinary tenant, for it is extremely likely that many would prefer to stay on in a place where they have led honest lives, and where they are likely to remain in peace, than to go back to old surroundings where the stigma of prison life is remembered, and where every hour brings suspicion. This would mean, of course, that colonies would grow in number and size. But in a vast country like India, with so much undeveloped land, this question should present no great difficulties.

I do not think that the financial aspect of establishing colonies need worry the authorities. Colonies would cost very little to inaugurate, and once provision was made for the initial

stages, they would become practically self-supporting. Organized and efficient agricultural operations could be made to provide a budget, which would not only pay for efficient supervision, but would also provide an adequate living wage for the colonists.



## VII

### TRANSPORTATION

**T**HE punishment of transportation—either for life or for a term of years—means that the prisoner, instead of being confined in a jail in his own country, is deported to a foreign land, entirely cut off from his kith and kin. The place being far away from his home, generally on an island, the prisoner has no chance of seeing his relatives throughout the period of his sentence. The Andaman Islands have for years confined prisoners transported from India.

The object of transporting a prisoner is twofold. The offender is supposed to be so depraved and the offence committed by him so serious, that it is considered necessary to inflict on him a punishment far more severe than ordinary imprisonment in a jail. Secondly, the punishment is meant to be a 'terrifying' deterrent to potential criminals.

Strictly speaking, the type of offender who used to be sent, and who is being sent even now under conditions to be presently described, was not in every case the type that should

have been transported. The test was not the 'dangerousness' of an offender. The matter was decided by the fact that the particular court trying the prisoner considered transportation a more appropriate punishment in his case than rigorous imprisonment. For example, every murderer who was fit to go to the Andamans, was automatically sent there. An idea prevailed—and still persists in some quarters—that a murderer is, without exception, the worst type of criminal. As a matter of fact such is not always the case. Murders are often committed under grave and sudden provocation, in a moment of passion, or in a state of utter thoughtlessness. Many murderers, when committed to prison, make some of the best behaved inmates. They are not incorrigible criminals, and can be easily dealt with in an ordinary jail.

Indeed, the common habitual thief is a much more dangerous man. It is this type who preys on society and fills our prisons. We scarcely know how to correct him. This is the type that is eminently suited for a long stretch of transportation or preventive detention.

Then again, all offenders involved in organized crime such as dacoity or robbery, are not equally culpable. In almost every gang there are ring-leaders and master minds. But there

are others who are comparatively innocent, having been misled by the leaders. It is not only unnecessary to transport such prisoners, but they should be separated from their hardened instigators if we wish to correct them.

The Andamans settlement as a penal colony was not a success. As a result of two inquiries—one ordered by the Government of India and the other held by the Royal Commission on Prisons (1921)—transportation as a judicial punishment has now been abolished.

The causes of the failure of this settlement were many. It is not my intention to go into the whole history of this causation. Large numbers of male convicts used to be allowed to work freely, a very small section being confined in the local jail. There being very few females in the colony, the life led by the males was not natural. This was one of the main causes of failure.

In previous chapters I have referred to the harm resulting from the association of comparatively innocent offenders with hardened criminals. As the convicts sent to the Islands belonged to every conceivable category, first offenders and habituals, young and old, such association was more free, and therefore more

objectionable, in the Andamans than in an ordinary jail.

The present arrangement has to some extent mitigated one of the evils already mentioned. 'Volunteers' are allowed to go to the Andamans, and are encouraged to take their families with them. These volunteers are carefully selected from amongst the first offenders of good behaviour. The policy apparently is to turn the Andamans into a respectable colony of good settlers. Though this arrangement may be excellent from the point of view of the Andamans authorities, it is not so when one looks at it from the provincial point of view. Every Province can look after the type of prisoner who is now accepted by the Andamans administration. A reference to the last chapter will show that the pressing need of India is to have colonies for the incorrigible habitual. The present position is distinctly anomalous. On the other hand, a Province is saddled with the type of prisoner for whom transportation (with his family when possible) as a means of preventive detention would prove almost a specific remedy, while on the other hand the Andamans take care of the less dangerous criminal who can be easily dealt with by provincial jails. The Andaman Islands are the

joint property of all the Provinces, and it is a pity that they are not available for the purpose for which they are eminently suited. If utilized for preventive detention, they would save an enormous amount of expense and labour to every Province in India, with resultant benefit to the State.

I have repeatedly urged the necessity of having trained men in charge of institutions dealing with criminals. The same remarks apply to a penal settlement. My own experience of similar working gangs in Burma (where an experiment for releasing prisoners on ticket-of-leave was tried for a few years) has been, that when the prisoners were handled by an officer who knew them and who had had previous training in the matter, the institution was a great success. On the other hand, when prisoners were allowed to be dealt with by inexperienced though well-meaning officers, the affair proved a dismal failure.

There are thousands of prisoners confined in the Andaman Islands. A short visit convinced me that with the exception of the officers in charge of the small local jail, no one knew very much about the science of criminology or the type of man he had to handle. Is it too much to hope that this grave defect may be rectified,

especially if the Islands are to be utilized for preventive detention? There are several experienced officers scattered through the prison departments of the various Provinces who have the requisite knowledge and training, and who have devoted many years to the study of the subject. It would be a fitting reward for their good work if some of them were transferred to the Andaman Islands on promotion. If after securing such wise guidance and supervision, the bold step were taken by all Provinces to deport their incorrigible habituals under special legislation the results would be decidedly salutary. The prisoners themselves would have a new lease of life, and some at least would turn over a new leaf and become good citizens. This is borne out by the experience of the Salvation Army with criminal tribes in India, and I do not see any reason whatever why the scheme I have urged should fail, provided it is put into execution by trained and sympathetic officers.

## VIII

### REVISION OF SENTENCES

**T**HERE is much diversity of opinion as to the wisdom of revising sentences once they have been passed. Some people think that once a sentence is given, a prisoner should be made to serve it in full. Others argue that if you release a prisoner before the expiry of his sentence, you will encourage him, as well as others, to commit crime ; that the majesty of the law will not be upheld, and that the adoption of a systematic policy of revision would tend to undermine the authority of the State. Some people pretend to fear that if magistrates and judges know that sentences pronounced by them are likely to be reduced on revision, they will be inclined to pass heavier punishments than they might otherwise have done.

Such arguments ignore certain fundamental facts. It is agreed that prisons are training institutions, maintained primarily for the correction—I use the word in the total sense—of the prisoner. In selecting this means to achieve its end, the State starts with a strict handicap.

I have already pointed out the evils inherent in imprisonment, the dangers of association with other criminals, and the deterioration in character which almost always follows under the conditions prevailing in jails. Men have been known to come out of jail more depraved than when they went in. Imprisonment tends to produce in the criminal an atrophy of certain mental powers, and a man loses initiative and all sense of responsibility. Prisoners are not encouraged to think for themselves, and their mental faculties become dwarfed. Instances have been known, happily not so common nowadays, of men released after long terms of imprisonment, not knowing where to go or what to do. Some have even been known to sit on the doorstep of a prison, and to complain that they did not know what they had done to deserve being turned out in 'such a cruel manner'.

I have summarized these reasons against long imprisonment—indeed against imprisonment itself—because they are the basis of the argument in favour of revision of sentences. Their general recognition has meant that practically every civilized country has devised some kind of machinery for bringing the cases of long-term



prisoners before a competent board for periodical revision.

No magistrate or judge can claim with any degree of certitude that a particular individual can be corrected, say, after a period of five years, but not after one of four. The courts certainly go through the details of an offence, and they are perhaps the best judges of the circumstances under which it was committed. But the courts in India have neither the time nor the requisite machinery for making a searching investigation into the character and social antecedents of the accused, and they certainly cannot prophesy, or estimate, how the accused will react to the treatment to be meted out to him. It is true that courts are given a certain amount of discretion, as they work under codes which, in most cases, prescribe the maximum punishment that can be awarded in each case, but even then it is a heavy, if not undischageable, responsibility that is placed upon a court in attempting to estimate a perfectly just sentence.

It is impossible for a court judicially to investigate motives, training, character, temperament, and opportunities, except in the most superficial fashion. The result is often a haphazard guess as to whether a man should

be given five or ten years. Another factor which still further confuses the issue is the personality and temperament of the judge. One judge may be merciful, another severe ; one may be even-tempered and sympathetic, another moody, irritable, and stern. One judge may give two years for an offence, another seven. Such irregularities mean injustice, and bring discredit upon the law and its officers. The sole aim of the Government ought to be to protect the public, and not to deal out purely retributive punishment. That being so, the question is not how long should a prisoner be made to suffer, but how best can society be protected. To prescribe a definite period of imprisonment as the proper corrective in any particular type of case is as irrational and illogical as sending a small-pox patient to a hospital for a definite period. To pursue the analogy further, just as a small-pox patient has to be cured and made non-infective, so a prisoner should not be released from prison unless he has been trained and reformed, and has ceased to be a source of danger.

Though crime is susceptible of exact definition, the degree of guilt in a person committing it is not so. A thousand facts and circumstances combine to determine the degree of

provocation or temptation. The habits and temperament of the offender, the motives that may or may not control him, the environment influencing the past stages of his life, the nature and extent of his intelligence, and the reactions of countless individual incidents aggravate or palliate guilt. It is impossible to investigate all these factors or to solve completely the problem of the individual at the time of his trial. Yet without such information and study it is obviously unfair to give the same punishment for what appears superficially to be the same offence. If we were to award ten years' rigorous imprisonment for every case of grievous hurt with the intention to kill, without taking into consideration provocation or the want of it, the result would be revolting to any normal sense of justice.

The effect of imprisonment upon the criminal can only be a matter of actual observation and experience. It must, therefore, be recognized that if a body of responsible persons constituting what may be termed a Revisory or an Advisory Board recommends the modification of sentences in the light of further experience, it is neither a reflection on the judiciary nor an action fraught with danger to society. It is unfortunate that

different Provinces in India have different ideas as to the length of imprisonment thought necessary for similar offences. The average sentence for theft in Burma is double that in India. A Burma magistrate apparently believes that nothing under two years will cure a thief, whereas in India, one year is held to be adequate. A study of the comparative graphs of length of sentences awarded in the different Provinces of India fully illustrates this inequality. In one Province, for example, six months is given for a certain offence; in another, it may be one year. As a matter of fact, no judicial authority is or can be infallible, and it is only fair that there should be a systematic machinery operating, whose function it must be to exercise a moderating influence and to revise, readjust, and reduce sentences in deserving cases.

Nor is the apprehension that a systematic revision of sentences tends to make courts award longer terms in the first instance borne out by actual experience. In fact the very existence of a revisory board acts as a steady influence upon those judicial authorities who may be inclined to impose unwarrantably heavy sentences. In no country yet has it been experienced that revision of long

sentences has increased the incidence of general crime. The reason is that the prevalence of crime is checked by the percentage of criminals actually brought to book, and not by the severity of awarded sentences.

I am afraid that much ground has to be covered in educating official and public opinion on this subject. I know, for example, that the introduction of a scheme for revision in one Province at least led to an outcry from many of the district officials, who seemed to think that the whole countryside would be overrun by criminals who ought to be kept in confinement, instead of being let loose on society. The figures I give below will show that such fears are unjustifiable.

When the system of revision of sentences is introduced, the outlook of every long-term prisoner is immediately changed. A prisoner, faced with a sentence of ten or fifteen years, loses all heart and all interest in life. It may be the State's punishment for his offence, but it helps neither the culprit nor the community. Despair and helplessness do not encourage a prisoner to work well or behave well. He becomes apathetic and sulky, and will not co-operate. But if this same prisoner is told, right from the start, that after a certain number

of years his case will be reconsidered by a committee, and that provided he gives proof of having made a serious effort to mend his lapse by virtue of hard work and good behaviour, he is likely to be recommended for release, with or without conditions, then there is an entirely different state of affairs. In practically every case, the man becomes a normal human being, ready to do his best to make good. Whenever there is any positive capacity in a criminal for good, it is brought out, and abject despair is replaced by hope.

Only those who are in daily touch with prisons can realize how the adoption of this policy of revision helps the administration. My experience is that almost every offender eligible for revision makes a serious effort to qualify for release. This is an enormous gain and a definite help towards the smooth working of a prison. The prisoners calculate to a day when their cases will be submitted, and after that they live for 'The Day' of release.

Revision of sentences is a powerful weapon in the hands of the prison authorities for the prevention of misbehaviour in jail. Every prisoner is made to understand that his good conduct in jail is essential before his case is considered. He naturally makes every effort

to keep out of mischief. In Burma the number of prison offences has fallen by about sixty per cent during the last ten years. I attribute the introduction of the system of revision as one of the most powerful factors in having brought about this result.

A revisory board should consider the following points and evidence before arriving at a decision :

1. The age of the offender at the time of the commission of the offence.
2. The section or sections of the Penal Code under which he was sentenced.
3. The district to which the offender belongs.
4. A short note giving the salient points of the case, based on the judgement of the court.
5. Conduct in jail, giving details of offences committed in jail, if any.
6. Opinion of the Medical Officer of the jail, especially in cases in which the sanity of the offender has been questioned.
7. The local reputation of the offender in his village, as given by the village headman, with endorsements by the Police and the Deputy Com-

missioner of the District as to the desirability or otherwise of release.

The consideration of the age of the offender is important. An offence that may be treated with a certain amount of indulgence in a boy of 16 would probably be unforgivable in an adult of 30. On the other hand, old persons deserve a certain amount of leniency. Though it is not strictly relevant to the subject, it is advisable to know the reputation of the District from which the offender comes. The members of the board, being practical men of the world, are bound to pay attention to the subject. For example, in the case of a District which is notorious for the number of dacoities committed, one would take greater care before returning an ex-dacoit to it. A précis of the case is essential in order to enable the members of the board to decide what part was actually taken by the offender concerned, and whether the way in which the crime was committed showed great moral depravity or cruelty or some such factor which would affect their opinion. A consideration of the circumstances in which the offence took place is specially important in the case of young offenders and in cases in which organized crime, involving several offenders, was committed.



Conduct in jail should be the most important of the factors forming one's decision in a particular case. Every case in which the conduct of the prisoner has been bad should be ruthlessly rejected, on the principle that the prisoner, though given a chance, has made no effort to mend his ways. By bad conduct is not meant trivial or technical prison offences. Amongst the more serious offences that may be classified as bad conduct would be quarrelling, fighting, showing violence, stealing, and persistently disobeying orders or refusing to work. It is unnecessary to add that when a prisoner has undergone a long period of imprisonment one or two lapses of the above nature committed several years before the case comes up for consideration deserve to be condoned.

I deem it necessary to emphasize the fact that revision should only be applied to first offenders. The habitual has already had his chance and has not reformed himself, and reducing his sentence would do him no good, nor would it help society. Releasing habituals before their time is unsound policy.

It may be instructive to give the actual results achieved under the revisionary system in the Province of Burma. During the ten years 1924 to 1933 over 5,000 prisoners were

released prematurely, on certain very light conditions. Out of this number less than 4 per cent betrayed the trust placed in them, and had therefore to be returned to jail. This is a splendid record of which any country could be proud, and it goes to prove, if such proof were necessary, that as long as care is taken to select deserving cases for premature release, not only is no harm done, but much good results. These men during the probationary period—that is, the unexpired portion of their sentences—are taught to behave well and to work honestly. In fact, it may be stated as a wholesome general principle that it is far better to have a probationary period of freedom, with a certain amount of restraint, than to release a prisoner outright.

The last and most important point in connexion with any system of revision of sentences is the necessity of having a really efficient board. All shades of opinion should be represented. In Burma, for example, the board consists of one Sessions Judge, two Deputy Commissioners, the Commissioner of Police, Rangoon, and two or three unofficial members, presided over by the Inspector-General of Prisons. This board works admirably, for the

simple reason that each case is considered from all possible angles.

A revisory board should never allow sentiment to influence its judgement, but should proceed in a businesslike manner, the only point for decision being whether it is safe to release a prisoner, taking all the circumstances into consideration. No outside influences should be allowed to sway the judgement of the members.

The board in Burma was accused by one party of being too cautious and by another of being too lenient. The best answer to both critics should be the ultimate result of its deliberations. That is the only valid test.

It is perhaps unnecessary to add that if the members of the board are not carefully chosen, if the work is not done in a businesslike and conscientious manner, and if undue outside influences are allowed to warp the judgement of the members, the result will be nothing short of disastrous. Deserving cases may not be released and dangerous criminals may be let loose on society, doing incalculable harm and bringing an excellent system into disrepute.

## IX

### FEMALE PRISONERS

IT is hardly necessary to state that the principles underlying the treatment of males apply to females also. There must, however, be a few differences peculiar to the sex.

Fortunately the number of female prisoners confined in the jails of the country is small. Greater is the reason why every Province should make special arrangements for the treatment and training of this small population. It is a matter for regret that in most Provinces of India this section is either neglected or ignored.

It is very important that female prisoners should be guarded, trained, and supervised by members of their own sex. In other words, perhaps with the exception of the Superintendent and a few necessary members of the staff, the whole of the staff of a female jail should consist of women. This can only be done if all female prisoners are centralized in one or two jails in each Province, as otherwise the expense becomes prohibitive.

Not only should the staff immediately in contact with female prisoners consist of women, but the visitors should also be women as far as possible. Women of the class found in Indian jails are never at ease in the presence of strange men. It is necessary therefore to bring the good influence of philanthropic and public-spirited ladies to bear on the female inmates of our jails. That such influence works wonders at times is common knowledge. The inmates begin to take an interest in their lives, try to emulate the good example of the visitors, and generally behave well.

The training of females in handicrafts also differs from that of males. When the period of the so-called hard labour—such as cleaning and grinding grain on hand-mills—is over, some form of needlework, cutting out and sewing ordinary clothes, and similar work can be profitably undertaken. The use of the sewing-machine should be taught to apt pupils, as these machines are now to be found in every village in India.

It is necessary in the case of females to encourage them to keep themselves neat and tidy. In order that they may take a pride in their personal appearance a few mirrors, and a comb for each inmate, should be supplied.

Attention to such small details preserves the self-respect of female prisoners and makes all the difference to their general demeanour.

The after-care of female prisoners usually presents few difficulties, as most of them have a home to go to and need very little assistance. But for the microscopic minority that do need assistance, the Prisoners' Aid Society can be depended on to render help.

## X

### PRISONS : TRAINING OF INMATES

**T**HE principles behind imprisonment have changed as civilization has advanced from reform to reform. At first a prison was nothing more or less than a house for punishment, imposed without any definite idea behind it save that of elementary justice. A man who had committed an offence deserved punishment, and that was all there was to be said about it.

At a later stage, emerged the idea that an offender should be dealt with in such a way that he and other potential criminals might be deterred from committing crime and thus society might be protected.

According to the principles then prevailing, the offender was sent to an institution called a prison to receive the retribution which his offence called for, and during the whole period he remained there he endured punishment after punishment. The brutality visited upon the prisoners depended on the proficiency which the jailors of those times had attained

in inflicting it. Physical cruelty was the essence of the system, and the jailors usually exercised little less barbarity than the prisoners might have practised in committing the offence. The curious idea existed, and unfortunately still persists in some quarters, that the more severe the punishment the greater would be the deterrent effect.

In spite of the severity of sentences—and heavy sentences were once considered the most effective panacea—and in spite of the barbarous methods of punishment, crime continued, and indeed flourished. People could not understand why the example of punished criminals did not have a deterrent result. Some thought that this effect was absent because the punishment was not severe enough, forgetting that criminals are human beings, and not machines, and cannot be expected to react with mathematical exactitude to stereotyped methods of treatment.

By the process of *reductio ad absurdum* following the evidence of these past methods and theories, the modern school of thought has arisen. Modern penologists proceeded to study the causes of crime, and the type of man that makes a criminal. They soon realized that if good results are wanted, the



old ideas of revenge and punishment must be given up, and the idea of training or reform of the criminal must be adopted. A man who has committed an offence, whether as a result of some defects in his training or under the influence of bad companions or surroundings, and has been imprisoned, finds in the retributive severity of a jail nothing but a justification for his attitude. He has gone to jail feeling that society has used him badly ; in prison this feeling of soreness and bitterness is increased by unjust and stupid treatment. On the other hand, the gaps in the early physical, mental, and moral training of a criminal are not likely to be filled by giving him, for example, ten stripes a day.

Modern thought on the subject of imprisonment can be summed up as follows. Punishment is always implicit in every system of imprisonment. The very fact that a person is inside a jail, deprived of liberty, and deprived of contact with relations and friends, in itself constitutes a severe punishment. But there is neither any need nor any justification for adding to this punishment unnecessarily. Deterrence must go hand in hand with imprisonment, but if by deterrence we really mean that the prisoner himself should not commit

another offence, this object is more likely to be achieved by the use of some kind of intelligent training than by meaningless measures of punishment. As far as the potential criminal is concerned, he will be deterred—as much as he ever will be deterred—as long as he knows that he cannot avoid punishment if he commits an offence. For I cannot emphasize too strongly the principle that deterrence depends much more on the certainty than on the severity of punishment.

Let us consider the case of two adjoining Districts of about equal size, in each of which a hundred cases of cattle theft occurred during one year. Suppose that in District A ninety cases are arrested, each one of whom gets a sentence of six months' rigorous imprisonment. Then suppose that in District B only ten cases are detected, to each of whom five years' imprisonment is awarded. It is certain that cattle theft will continue to be more popular in the second district than in the first. The potential criminal is usually a gambler, and he gambles on his chances of being detected, not on the amount of punishment he may receive if he is detected. At first sight it would appear that in the second village potential cattle thieves would be horror-stricken by the thought of

five years' imprisonment ; but against this is the certainty that ninety actual thieves are rejoicing at having outwitted the authorities. This more than counterbalances what fear may exist about receiving a severe sentence. A potential thief will argue that the chances are nine to one in his favour, and therefore that the risk is worth taking.

The main feature of the new methods adopted in prisons nowadays centres round training. Training, to be of any use, has to be both individual and comprehensive. Most offenders, especially offenders against property, have been found to be lazy in their habits. It is usually people who are lazy who live by thieving. Such criminals have very little desire to work and to earn what they wish to possess. Theft is a short cut to money or property. Accordingly, one of the first steps in the training of most offenders is to teach them how to do a hard day's work and how to be unafraid of work. Once a man has learnt to do an honest day's work without complaining, half the battle of reclamation is won.

The actual kind of work is a detail and does not much matter. What is essential is that the work, at first, should be of an irksome nature, and only after a man has cheerfully

done what he ordinarily does not like to do, should he be given some kind of labour for which he has a preference. The subjects of such treatment in ordinary life commonly follow the line of least resistance and have little moral backbone. Their training should be determined by the desire to teach them not to give in easily to their weaknesses. If a prisoner can get over his initial difficulties, he may make an apt pupil, and the lengths to which he will go to acquire skill and merit in labour are often surprising. The most essential thing is to arouse in him a respect for the sanctity of work. The rest will follow automatically, provided—and this is essential—that there are always at hand teachers to guide and supervise.

Most of the inmates of an Indian prison betray a comparatively poor mentality. They may have a certain inborn shrewdness and cunning, but the vast majority of them possess cleverness in one direction only. Illiteracy is far too common. I am, therefore, an advocate of a simple elementary system of education to be given to all those who are young enough to learn. Such education need not go beyond the teaching of reading, writing, and arithmetic, with a little geography and local history. Such a groundwork opens up the way for further

reforming influences. When a man can read and write, he can be allowed to extend his education himself, by reading carefully selected books. Such an educational course can be supplemented by lectures in prison from officials and non-officials.

It is not sufficient to keep the prisoner busy with hard work as the sole form of training. It is necessary also to keep him physically fit in order that his mind may be fresh and alert. For the younger offenders it is a sound policy to have a system of physical training which, coupled with organized outdoor games, is certain to be beneficial. Prisoners who are tired out by honest work and healthy open-air exercise keep out of mischief, and in a jail where such training is the rule, there is usually the minimum amount of trouble. It is a good thing to aim at getting a prisoner so tired at the end of a day that he has no desire to carry on idle gossip, but merely welcomes sleep.

I am in favour of giving spiritual instruction to prisoners, although I am aware that there are many people who think that imparting such instruction to men who have committed crime is a mere waste of time. Others say that a prisoner attends a service weekly as a

matter of form, or as a relief from prison routine, and that such services breed hypocrisy. I do not think that this is true, especially in the east. The average prisoner in India has some sort of religious instinct inherent in him, and there are very few prisoners in this country so depraved as to look upon a religious service as a farce. A good deal, of course, depends on the personality of the priest or the preacher, and the greatest care must be taken in selecting men of the right character and possessed of a sense of tact. But when the right man is found, the results are quickly seen.

I knew a Buddhist monk of great spiritual distinction who used to preach regularly in one of our Burma jails. I noticed how the men used to look forward to his visits, and so I determined to enlist his services, and to persuade him to come and speak to individual prisoners who had been guilty of bad behaviour. The monk agreed. I was afterwards surprised to see some of our most hardened cases coming away from their interview with him in tears, and obviously impressed with some idea of repentance. Our subsequent experience was that many men on whom we had had no effect by our ordinary prison methods had responded to the gentle persuasiveness of this old

Buddhist monk. Even prisoners whom we had thought to be incorrigible turned over a new leaf in response to his ministrations, and gave us little or no trouble afterwards.

At the present time religious instruction is only given once a week, where it is given at all. In my opinion, it would be better to have one or more priests attached to every prison in the country in the same way as there are permanent prison chaplains in England. The presence of such men among the rank and file of the prisoners has a most sobering and salutary influence, and if carefully selected priests or monks were allowed to mix freely among the working parties inside a jail, prepared to give a word of advice here, and a word of caution there, the result would be a considerable improvement in prison discipline.

Religious services should never be allowed to become a matter of mere routine. Once a prisoner gets the idea that he has to attend a certain service and repeat certain words like a parrot, the whole effect is ruined. There should be the closest co-operation between the staff of the prison and the priests who have the entrée, though the staff should never look upon the priest as a means of securing information to the detriment of the prisoners. Such priests

must be selected with the greatest care, and if the staff of a jail have faith in the spiritual training of prisoners, they should show it by their own behaviour. If they respect a priest, the prisoners will respect him. This question is complicated in India by the existence of so many religions, but as far as possible efforts should be made to cater for every denomination. The best course would be to incorporate priests in the prison department, and to persuade them to devote their whole lives to prison work ; for it is only by so doing that they can gain the proper experience and produce the fullest results. The influence of such religious workers upon the prison staff also cannot be ignored.

If the daily work in a jail is properly organized there is no reason why prison labour should not be organized on a sound economic basis. In other words, there should be vocational training. I am well aware that many of the jails in India are not suitable for such work. They were built in the early days when prisons were solely places for punishment. They were built right in the hearts of cities to confine hundreds and sometimes thousands of prisoners, without the room, or the means, adequately to employ them all. Nowadays the prison administrator has not only to face the difficult problem of



poor and inadequate buildings, but he has also to rack his brains to find suitable labour for the prisoners. Efforts have been made from time to time to organize the work in prisons, but with varying success. I am of the opinion that the best solution is that the Provincial Governments should insist on all departments obtaining their requirements from the prisons under their control, and only when the latter are unable to supply the article should the consuming department be permitted to buy in the open market. The adoption of this policy would enable the Prison Department to organize a number of industries in full confidence that their products would not show a loss to the State. If all Government departments cheerfully co-operated to support prison products, a large sum of money would be saved yearly. There appears, however, to be a certain amount of antagonism to this idea of obtaining departmental necessities from prisons. The commercial world is suspicious of prison labour, and fears price-cutting, while the Government departments are conservative in their policy, and reluctant to try experiments. There need be no cutting of ordinary commercial prices, if there is co-operation with regard to the selection of prison industries ; while the opposi-

tion of the Government officer can be overcome with a little organization. It is no doubt true that when any article is manufactured and supplied by the Prison Department for the first time, it may not reach a very high standard, but a little patience exercised by the other departments, coupled with a little friendly criticism and advice, should enable prison labour to produce articles of as good quality as those of any private firm. And the Government cannot be blamed for reducing the burden on the taxpayer arising from the cost of prison administration by making the convict to some degree economically profitable.

## XI

### PRISON DISCIPLINE

**T**HERE used to be an idea that the basis of prison discipline was the exercise of something approaching ferocity. The notion was that a perfectly disciplined prison was one in which everything went smoothly and no inmates gave any trouble. It was thought that the surest way of achieving this quietude was to meet every lapse, however trivial, with the sternest punishment, and to practise a perpetual regime of frightfulness.

Unfortunately for this old-fashioned school it was proved again and again that their well behaved population were only waiting for an opportunity to strike back. Men who were apparently cowed were really only temporarily submitting to the force of circumstances, and were in a highly dangerous condition. Repression is not, and can never produce, discipline. Men who are being systematically repressed begin by being sulky, and end by being thoroughly demoralized. They are always

harbouring a revengeful and vindictive spirit against the administration.

I remember being greatly impressed by an incident early in my connexion with prisons. The Lieutenant-Governor of the Province had been visiting a certain jail, and after he had concluded his inspection asked to see the punishment register. While turning over the pages, he inquired how many floggings we had had to administer during the year. He was told that there had only been four or five whippings up to the time of inspection. The Lieutenant-Governor then turned to me and asked me if I thought discipline could be maintained with such a small number of floggings. I rather dodged the question by saying that in view of my limited experience it was difficult for me to answer. His Excellency then told me that when he was Deputy Commissioner and later Commissioner at that very same station years before, there used to be several floggings every day, and that the prisoners always looked sulky and more like caged wild animals than like human beings. In addition, there used to be an unpleasantly large number of murderous assaults. He said he was glad to observe the remarkable change in the appearance and demeanour of the prisoners and

advised me to adhere to my policy of using the cane only in exceptional cases and never to adopt the old methods. The contrast drawn on this occasion by an experienced and humane administrator between the merits of the school of brute force and the school of moral force produced a lasting impression on my mind and made me determined to stick to the method I had already adopted. Indeed, during the whole of my twenty years' experience I have never found the slightest reason for changing my views and my policy.

How then can true discipline be created and maintained? It is certainly not effected by unreasoning, continuous repression. Brute force and continual flogging have never produced good order. True discipline, I maintain, is created and kept by invoking an attitude on the part of the prisoner which brings out all the good there is in him, and to which he gives expression by feeling a real respect for the members of the staff—a respect indeed that in many cases closely resembles affection and even hero-worship. Properly disciplined prisoners never obstruct the staff, but co-operate with cheerful readiness. Properly disciplined prisoners work willingly, work hard and behave well. Such prisoners vie with

one another in earning remissions and rewards. They live a clean, healthy life, and keep themselves neat and tidy. They are never afraid to give vent to real grievances; they make their complaints without being disrespectful or insolent; and they will always be ready to accept the decision of a just and able Superintendent. Such factors make for true discipline. The key, however, to this method is to be found in the personality and example of the Superintendent. He must give his whole heart to his work. He must pay scrupulous attention to all complaints and to all breaches of prison regulations. His decision must be based on a high sense of justice and fairness, and he must be able to command the loyal co-operation and support of his staff.

Infinite patience and forbearance, as well as a sense of real human sympathy for the prisoner, are in the main the moral qualities that engender true discipline. If you have a prison staff trained in the ideal of keeping the welfare of the prisoner always in mind, discipline on the part of the prisoners will follow as day follows night. The results of properly disciplined prisoners are necessarily far-reaching. A well disciplined prisoner has nothing to fear either during imprisonment or after release.

He looks on the prison staff as genuine friends, and I have come across many instances of prisoners seeking out members of the prison staff after their release, and asking for advice and guidance.

## XII

### PRISONS : PUNISHMENTS AND REWARDS

CLOSELY connected with true prison discipline are certain other factors which should be attended to in a jail. When the main object of imprisonment was punishment, and nothing else, it was the fashion to heap indignity after indignity on the prisoner as an essential part of the punishment. For example, the hair was cropped close, and in England the clothes of prisoners were marked with arrows. In Burma the ordinary Burman either keeps long hair or short hair, but in prison his head used to be shaved. In other respects, also, the idea was that a prisoner was not to be treated like an ordinary human being. The way the staff used to address prisoners gives a clear idea of what they thought about them. It was considered quite a good thing to shout and bawl in order to impress them with the importance of the officer concerned, and also with their own humiliating position. In such circumstances prisoners felt no self-respect, and no attempt



was ever made to restore the self-respect they had lost. It was impossible to return prisoners to society as normal individuals.

Prison punishments and rewards are so intimately connected with discipline that they must be discussed at length. Under the Acts governing the management of prisons, certain actions on the part of prisoners are pronounced prison offences, and various punishments have been authorized for dealing with them as such. The offences fall mainly under four heads, namely :

1. those connected with work ;
2. those connected with quarrelling, assaults, mutiny, and so on ;
3. those connected with the possession of contraband articles ; and
4. miscellaneous.

The punishments prescribed for prison offences vary from the lightest to the heaviest, which means flogging. Under the rules enormous power is vested in the hands of the Superintendent.

Rewards, for good conduct, good work, and various other items such as the preservation of clothing and assistance to the authorities in various ways, are also prescribed according to the prison code. Rewards mainly take the

shape of the remission of so many days. Some prisoners earn more remission than others, according to the way in which they behave and work. The maximum amount of remission that a prisoner is allowed to earn cannot exceed a quarter of his sentence, without special orders from the Government.

There are two schools of thought in connexion with punishments and rewards. One school, happily now becoming extinct, believed that punishment was the only way in which you could cure an offender of whatever faults he might possess. I have been informed that a Superintendent in a certain jail used to be followed, on his morning rounds, by prisoners carrying a flogging triangle, ready for instant use, and that it was a common practice on the part of the Superintendent summarily to flog prisoners, whenever reported to him for various offences. I suppose the idea was to strike terror into the hearts of the prisoners, and to impress them with the greatness of the Superintendent. But if his object was to cure the prisoners, I am afraid he never achieved it. Punishments, by themselves, have never cured the individual of his shortcomings. In fact, if punishment were our only weapon the man would become more and more inured to it.

and more and more depraved, till the time came when punishment would have no effect. It is therefore a wise policy to use punishments with discretion, and make them as light as possible, in proportion to the offences committed. Firmness there must be, and the prisoner must be given to understand that no nonsense will be tolerated, but by that is not meant that you will use the most drastic punishments, in and out of season.

In this connexion one point must be emphasized. Whatever the prisoner may have done, and however bad he may appear to you to be, it is most essential that a proper inquiry should be made into the charges framed against him. I am urging this necessity, because I know that Superintendents, either for want of time or out of sheer thoughtlessness, often do not bother to inquire into the full circumstances of a case, but dole out punishments on the word of the jailor concerned. Such a summary procedure is bound to cause a certain amount of injustice, and as the unfair treatment of a single individual is keenly felt by all prisoners, it must be avoided at all costs. The inmates feel that advantage is being taken of their helpless position, and that a square deal is not being given to them.

A good instance of this may be recalled. When I was in charge of a prison some years ago I got a note from the jailor on my return home after a heavy morning's work, informing me that a certain prisoner had assaulted another and had broken his arm. Would I go and see the victim? When I arrived on the scene I found that my medical assistant had attended to the injured prisoner, who was in great pain. I jumped to the conclusion that the assailant must have used great force, as the bone of the upper arm had undoubtedly been broken. I thought the punishment he deserved was flogging, but I sent for the accused and asked him what he had to say, before I proceeded to order the punishment. The man flatly denied that he had broken the bone. What had happened, he said, was that both of them had been 'sky-larking', pushing each other about. In one of these bouts the injured prisoner fell down and broke his bone.

The alleged assailant said he was very sorry for what had happened. The man's statement was verified by me, for I discovered a bruise on the skin over the elbow and none over the site of the fracture, which proved that the fracture was the result of what is called 'indirect violence'. This was also corroborated

by the injured prisoner. This knowledge forced me to alter my attitude completely, and I had to express my regret for having accused the alleged assailant of an offence which he had never committed. I also advised him not to behave in such a dangerous fashion again. The man was so relieved at having escaped the flogging, which he thought was bound to follow, that he was in tears, and promised to behave more carefully in future. If I had flogged the unfortunate fellow, he would have taken his punishment, but considered it most unjust, and where injustice is done to prisoners, there is little hope of reforming them or of maintaining discipline.

It is difficult to lay down hard and fast rules about the application of punishments. All one can safely say is that punishment should be like the treatment of a riot. Every punishment is the application of force of some sort, and the force should be just sufficient to correct the shortcomings of the prisoner, and no more. Forfeiture of remission earned, and other privileges obtained, should be tried first as a general rule. Then light punishments should be tried, and the heavier punishments should be reserved for those on whom light punishments have not

had much effect, or for those who have committed really serious offences.

It is far better to prevent prison offences than to try to cure them, and prevention of offences is in a great measure the result of scrupulous honesty and fair play on the part of members of the staff. Prison offences are often a reaction to the treatment meted out to prisoners inside a jail. There are, of course, the exceptions in which particularly truculent and obstreperous prisoners will give trouble without cause. In a prison in which the members of the staff from the Superintendent downwards deal with prisoners in a fair way, and try to help them with their work and with their training in general, the tendency will be for prison offences to go down in number.

An important weapon in our hands, to which reference has already been made, is that of granting or forfeiting remission. Every prisoner is entitled to a certain amount of remission every month, according to whether he is an ordinary prisoner, or promoted to the rank of convict officer. Of the latter, there are three grades : the convict warder, the convict overseer, and the convict night-watchman. The convict warder receives the highest amount of remission, and is also granted certain other highly prized

privileges. 'Ordinary' remission is granted as a matter of course, provided the prisoner works well and behaves well, but 'special' remission is also granted for marked excellence of work, freedom from punishment for prolonged periods, and several other reasons. For example, if a prisoner remains free from punishment for a complete year, the Superintendent grants him 15 days' remission.

It should be the policy of prison authorities to encourage prisoners to earn as much remission as possible. In the effort to earn remission the process of reform takes place. For example, in Burma, prisoners were given to understand that those who were free from punishment for three complete years would be granted 60 days' remission by the Inspector-General. During the first year about 150 names were submitted for this reward; the next year the figure doubled itself, and so on till it rose to over 800 in the course of five or six years. This shows that prisoners appreciate the encouragement given to them for good behaviour. Anyone who knows prison life will realize that a prisoner who keeps himself free from punishment for three complete years has made a valiant endeavour to behave himself. During the three years he has worked

under various officers, some good, some bad, and some indifferent, and in order to keep free from punishment for such a prolonged period he must have taken himself properly in hand. That in itself is part of the training or reform.

Some critics look upon the granting of rewards as a bribe. They say, 'What is the good of the so-called reform if the reform only takes place when you offer a bribe in the shape of remission or some other reward?' These people ignore the fact that we are dealing with ordinary human beings, who are swayed by rewards just as much as those who are free. The whole life of human beings, if analysed, will be found to consist in the hope of reward either in this life or the next, and a prisoner is no exception to the rule. Apart from this, the only tangible way we can show that good behaviour, good work and discipline will 'pay' is by granting remission. It will be observed that if we tell an offender that he has been bad, and that he should be good in future, he will not be much impressed: he hears too much of that sort of sermonizing during his life. But if we can prove to him in a practical manner that leading a good life is appreciated by others, and will be rewarded by them, he soon begins to improve.

That rewards are not lightly thought of



by prisoners can be seen from the fact that they take the keenest interest in earning them. A prisoner will tell you to a day how much remission he has earned, how much remission he has lost, and what is the net amount to his credit. He will tell you to a day when he is likely to be released, and he will go on adding and subtracting day after day till he comes somewhere near the end of his period. He feels the forfeiture of remission acutely, and time after time he will ask, on promise of good behaviour, that the forfeited remission or part of it may be restored to him. A prisoner who has his mind fixed on earning remission and his eyes fixed on the horizon of liberty, automatically gives up his evil ways, and makes an earnest contribution to self-reform.

From the time our angle of vision changed with regard to prison management, from the time we realized that, for offences which could be prevented, encouragement by rewards was a far better policy than mere punishment, the attitude of the prisoner has undergone an entire metamorphosis. This is reflected in the reduced frequency of prison offences. I have already quoted the results in Burma, where the number of prison offences was curtailed by over sixty per cent in a period of about ten years.

## XIII

### PROBLEMS OF LABOUR AND FINANCE

**I**N this chapter I propose to deal with certain matters having an important bearing on the administration of jails.

The finance of prison management can be made to fall conveniently under two headings. One comprises charges for maintenance, and the other deals with questions connected with prison labour and prison manufactures.

#### *Prison Finance*

Prisons being primarily institutions dealing with members of society who have offended, it is but natural and right that there should be no wastage in their maintenance and expenditure. It is the taxpayer who has to foot the bill, and he cannot help grudging the contributions he has to make for the upkeep of evil-doers. It is proper that he should insist on not being made to pay more than can be helped. The first principle, then, in the consideration of the financial aspect of prisons is that the utmost economy should be practised, as long

as that economy is commensurate with efficiency. It is possible to practise economy to such a degree that the main object of imprisonment is completely lost. We ought not to stint expenditure on the main object of imprisonment, which is to train a prisoner to be a respectable member of society.

But this training, as I have pointed out above, requires a highly efficient and well trained prison staff, and money spent in this direction amounts in the long run to true economy. It may be laid down that it is essential to ensure the employment of as good a staff as possible. Too often in the past the policy was to practise economy without any consideration for the efficiency of the staff. If we are to get the good results we want in future, this policy must be changed.

I am certain, however, that considerable economies can be practised under other heads of expenditure. Feeding, clothing, medical services, and so on can be reorganized in such a way as to effect a saving. It will be remembered that the duties of an Inspector-General are so multitudinous that it is almost impossible for him to devote adequate time to this subject. I think, therefore, that it would be good policy to assist him by appointing an officer well

trained in business methods, whose main duties would be prison economics. Such an officer has been functioning in Burma for several years with excellent results. The statistics that he has produced show that such an officer can be made to pay for himself over and over again.

If a well-trained and trustworthy special officer is available, the best way to practise economy is to centralize all purchases in the office of the Inspector-General. It should be the duty of the special officer to keep in touch with the markets, and he should know approximately the prices which prevail at every town where there is a jail. Formerly the practice was for Superintendents of jails to invite tenders, and for the results to be telegraphed to the Inspector-General for orders. Both the Inspector-General and the Superintendent, being without the requisite knowledge of market prices, were entirely at the mercy of the jailor concerned, and it often happened that the department paid exorbitant prices for the articles it purchased. In many cases, local tradespeople make a 'ring' and hold up the price. It is the duty of a special officer to break such 'rings' by having other tradespeople at his call. I could easily multiply such examples of where money has been spent

unnecessarily, but it is enough to say that after a special officer was appointed in Burma, our savings in the prices we paid for raw materials in the manufacture department alone amounted to about thirty per cent. This also was long before the world depression occurred. A special officer ought to be able to take advantage of every fall in market prices, and, being a purchaser on a large scale, need only buy when prices are at the lowest. The cost of prison administration, especially maintenance charges, was considerably reduced by these methods in Burma. The relief to the taxpayer can be seen by anyone interested, in the statistics which are published year by year.

I must add a few words on a problem that worries all officers in charge of the administration of departments, the problem of how to deal with graft and dishonesty. There are black sheep in every department, and the dishonesty of these men brings not only disgrace but a corresponding amount of loss of moral tone. It is a common belief that such graft is the practice of the country and that it cannot be stopped. If this belief is adopted as the attitude towards such practices by the head of the department, graft must of course continue and thrive. I am certain that

the practice can only have become the regular custom it unfortunately is in so many places, by some such vicious circle, but I am convinced that it is the duty of every officer placed in a position of responsibility to face the problem manfully and to try to eradicate the evil. This doubtless involves a good deal of trouble, and often disappointment when one is unable to bring the matter home to the actual culprit, but I am sure the effort is worth while. Persistent and consistent action by the head of a department will certainly reduce dishonesty to the minimum, if not totally uproot it.

### *Manufactures*

The Manufacture Department is intimately connected with finance as well as with the training of the prisoners. I am sure that if the accounts of the Manufacture Department in a Province are closely scrutinized, they will reveal much wastage of material and labour. It should be the duty of the officer, whose appointment I have urged, to take special responsibility for this subject and prevent such wastage. How much can be done in this direction can be seen from the following figures from our experience in Burma. Before the special officer was appointed, our Mann-

facture Department was employing between 5,000 and 6,000 prisoners a day, spending about one and a half lakhs of rupees, and receiving about four lakhs of rupees a year. The net profit was about two and a half lakhs of rupees. After the special officer had been in charge for three or four years, the expenditure rose, for the same number of prisoners, to about three lakhs of rupees, and the receipts to eight lakhs, a net profit of about five lakhs. In other words, close and intelligent supervision increased the gross and net receipts by a hundred per cent. It must be added that these results were achieved in spite of the great trade depression that overtook the country, and but for this trade depression, the results would most probably have been much better.

I am certain that it is a wise policy to assist the Inspector-General by a well-paid business-trained special officer. His salary is a real economy, and his work adds to the facilities open to Superintendents for the employment of prisoners on various handicrafts. If the Government will economize on the maintenance of prisoners in the manner I have indicated, which inflicts no hardship upon them, and increases the receipts from manufactures, it will have ample funds at its disposal to be

utilized in the various reforms that are so urgent.

### *Prison Labour*

I have pointed out above that one of the most important factors in the training of a prisoner is to teach him how to do an honest day's work. Without such training the imprisonment of a man would, nowadays, be considered meaningless. But in order to have facilities for having prisoners usefully employed, we must have the appropriate means at our disposal. In the old days, punitive forms of labour were devised, and men wasted their time on the crank, the fly-wheel,<sup>1</sup> shot drill, and so on. There was some curious idea that these back-breaking and heart-breaking forms of work would, somehow or other, reform a prisoner. Experience showed that the result was just the opposite.

The problem of prison labour has been made difficult of solution in England and America by the bitter, continuous, and persistent antagonism of manufacturers and trade unions. As a result, in England for example, prison

<sup>1</sup> The fly-wheel is a large wooden wheel turned by about twenty prisoners, which provides the central power for smaller wheels at which prisoners work. It is easy to understand that the prisoners supplying the power can have no interest in their labour.



labour, as judged by Indian standards, is a farce. Strong young men are made to do less work than a girl in a factory could perform with ease. I once saw a power-loom in England being worked by a young prisoner. On inquiry, I found that the amount of cloth woven on this loom during a day was about seven yards. Similarly, young and powerful men are made to sew mail bags and manufacture cane baskets.

In India so far there has not been so much persistent opposition to normal prison labour as in Europe. We are still in the fortunate position of having at our disposal several forms of interesting and instructive labour, but agitation and opposition have already started, and unless the Government and the public face the facts of the situation, and are instructed how to judge the problem on its real merits, it may not be very long before we shall have our prisoners idling in jail, fast losing the capacity for honest hard work.

The main reason given by the opposition to convict labour is that such labour is cheap, and that the selling price of prison products is low, and that therefore it is able to compete unfairly with outside manufactures. On the other hand it must be remembered that a

prison costs a lot of money to maintain, that the taxpayer has to find that money, and that, when the full figures are carefully looked at, prison labour, as a matter of absolute fact, is far from cheap. Moreover, under Government rules no article made in prison can be placed on the open market at a price lower than that of a similar article manufactured outside. The rules to this effect in every Province are quite clear. The idea, therefore, that jail labour is in unfair competition with outside labour is purely imaginary. In a large Province in India, there are probably no more than five or six thousand men really to compete with a labour force of from ten to twenty million. The correct view that should be taken is this : the small prison population is really part of the main population ; the free population has to pay for the upkeep of the prisoners and the more you can get out of the prisoners, within limits, by means of their labour, the less will be the burden on the taxpayer. Indeed, a prisoner has as much human right to be a hardworking, efficient unit as any individual at large.

If the following principles were to be adopted there ought to be few objections to prison labour being employed in a suitable manner

Every prisoner should be required to work as hard as his health permits. The work done should be of a useful nature, and the products should have a definite market value. Every prisoner, after a probationary period, should be employed on a task which will be useful to him after release. Prison manufactures should not be allowed to injure any outside industries. Government departments should, as far as possible, obtain their supplies from prisons.

### *Payment of Prisoners*

At first sight it appears that it is only fair that a prisoner should receive some payment for his work in a jail, such payment to be made only after the cost of his keep has been deducted. The amount so paid can be credited to an account in his name and partly used, if the man so desires it, for the maintenance of his family. Theoretically, this appears an admirable scheme, but in actual practice there are several drawbacks. In the larger jails, it would be necessary to keep a large staff of accountants and book-keepers to enter up accurately the amount of work done by each prisoner daily, and its money value. It would be necessary to have a meticulously honest staff, otherwise favouritism would creep in and petty tyranny

would be certain to be practised. If prisoners were not paid strictly according to their deserts, any such scheme would defeat its own object.

There is another drawback to such a proposal. Payment of prisoners in this way would mean that a certain sum of money would be credited to the account of the prisoner, who would receive a lump sum on release. The idea of course would be that such a lump sum would enable a man to keep himself during the time that he was looking for work, or supply the capital necessary for starting some trade. The trouble would be that when a prisoner was released, and especially if he were released outright, without any conditions, he would be in many cases inclined to spend such a sum prodigally and foolishly. The possession of such money would possibly bring the man back to jail sooner than if he had no money at all.

I think a better scheme would be to release prisoners through Prisoners' Aid Societies, to pay the latter a grant at a fixed rate per prisoner, (that is the case in England), and to leave it to such bodies to decide in what instalments the money should be advanced to the prisoner during the critical time between his release and his obtaining employment.

## XIV

### HEALTH AND FEEDING OF PRISONERS

**I**N India the health of prisoners is excellently protected. Over sixty per cent of those who enter a jail are found to have gained weight when they are released. About twenty per cent remain stationary in weight, and a very small percentage lose. This is the result of much thought and carefulness in the feeding and clothing of prisoners, as well as of such measures as the care of the water supply and the insistence everywhere on scrupulous cleanliness. The health statistics of prisons compare most favourably with those of the free population.

In recent years the tendency has been to spend more money on the prevention of disease than on treatment. Care is taken to segregate such infectious diseases as tuberculosis, dysentery, and leprosy. In almost every Province jails are set aside for the treatment of tubercular cases. By such measures and precautions the sickness and mortality of jails have been

brought down considerably, and such diseases as tuberculosis and dysentery, once the nightmare of the Prison Department, have been reduced to a minimum.

Prisoners' food is wholesome and sufficient—no further proof is needed of this than the statistics about weight already given. Great care is taken in specifying the right kind of material before it is bought, and in seeing that the supply is according to sealed samples. Much attention is also paid to the cooking of food and its proper distribution. Prison labour, in adequate quantities, is devoted to the growing of fresh vegetables so that each prisoner is certain of a plentiful supply.

Nor is the personal hygiene of the prisoner neglected. His clothing and bedding are disinfected regularly. Hygiene of the teeth and the mouth is insisted upon, and a daily bath is provided. Though many of the means at our disposal are simple and crude, they are none the less efficient. Infectious diseases, such as plague, cholera, typhoid fever, and smallpox, are seldom found in Indian prisons, not only because of the measures detailed above, but also because of the vigilance of the medical staff, which provides the necessary protection

against these diseases by means of inoculation and vaccination.

I have often been asked why all this is done. Why do we feed a prisoner in a jail better than he would be fed at home? We fatten him up and protect him in every way. Where is the punishment? Are we not in fact almost encouraging people to commit crime? These questions misunderstand all the fundamental principles underlying prison treatment. It might just as well be asked in return, 'Does rigorous imprisonment mean starving a man? Does it mean that he should either die in jail, or go out of it racked with disease and half dead?' People who talk like this forget that a man is sent to prison with the idea that society may be protected, and in order that, by a stay in jail, his mentality shall be so altered that he will not commit an offence again. There is punishment in the mere fact of imprisonment. A man has forfeited what is dearest to him, namely his liberty. Instead of doing what he likes and going where he likes, he is confined within four walls, and has implicitly to obey orders. All right-thinking persons are agreed that the time a man spends in jail should be utilized for training him. If such training is imparted zealously and intelligently it will form the best

deterrent. In order that the man should be so trained, he must be kept in good health. A sick or ailing man can neither assimilate training mentally nor do a hard day's work. It is therefore essential, that if we are to produce any sort of valuable impression on his mind, we should keep the man in good health.

The dietary of a prisoner in India has been drawn up with great care, on a scientific basis, and if it is analysed it will be found that it is just sufficient and no more to keep a man in good health. In other words, it supplies his physiological needs. Nor, if the expenditure involved be examined, will it be found that the dietary is too liberal. In Burma a prisoner's diet, which includes two square meals a day, shows a daily cost of one anna, fresh vegetables grown on the premises being excluded. It is impossible to argue that the expenditure of an anna a day indicates extravagance. The real truth is that it is not the diet, or any particular measure alone, but a combination of many factors which goes to safeguard the health of prisoners. Regular and wholesome diet, personal cleanliness, regular hours of work and sleep, methodical habits, all these and other imponderable conditions keep a man in health. To say that by these means and



precautions we are encouraging crime and not punishing the prisoner is nonsense. We are responsible for the bodies of the men in our charge, and the least we can do is to safeguard their health ; for to allow conditions to continue which would undermine health is no part of prison punishment.

## XV

### DUTIES OF THE SUPERINTENDENT AND HIS STAFF

STONE walls do not make a prison. Palatial buildings and imposing surroundings would be of no avail if the proper atmosphere for training and reform were lacking. This atmosphere can only be created by the staff. One of the best prisons I know is a camp jail, composed of huts, surrounded by barbed wire, through which any prisoner could escape if he wanted to. The atmosphere created by the personality of the Superintendent at this institution is so good that out of about 2,000 prisoners accommodated at this jail, barely twenty escaped during the course of six years. In fact, many prisoners elected to break stones at this jail, rather than return to ordinary jails with comparatively softer labour conditions.

If there is money to spend it should be spent on human beings, not on brick and mortar. The staff is the most essential part of prison management, and I am afraid it must be

admitted at the outset that this is the weakest point in Indian prison administration.

The officer who comes into immediate contact with the prisoner, and who is, therefore, of considerable importance, is the warder. Above the warder there are head warders and chief warders. Next in rank is the jailor. Above the jailor are gazetted officers, Superintendents, and Deputy Superintendents. Then there is the medical staff, consisting of a Medical Officer, with his subordinates. Among the staff may be counted also convict officers who shoulder a considerable amount of responsibility in the management of a jail.

Prison administrators in India have been agitating for years past for a better staff. The importance of having good warders and jailors has not yet been fully realized by the authorities. These same authorities would be horrified if the attempt were made to run a school with unqualified and uneducated teachers, but when one tells them that it is far easier to manage a school than a jail, they do not seem able to see that it is a matter of equal importance to have well trained jailors and warders. A good deal of the trouble in Indian jails is due to the presence of an inefficient staff, generally overworked and underpaid. The idea seems to

prevail that any fool can be a jail warder or a jailor. The hours of work are so long that it is surprising how men are found to accept prevailing conditions. A warder on night duty, for instance, has to work for two shifts of three hours each, during which he is supposed to patrol an area which may amount in the aggregate to a walk of 10 to 15 miles. It is superfluous to add that he never carries out his duties as efficiently as he is supposed to do ; what is more surprising is that things go as smoothly as they do.

Jail service seems to be the only service in which a man is supposed to shoulder very heavy responsibilities without any training at all. Prison officers pick up their work as they go along, and it is a matter of accident whether at the end of so many years a jailor or warder is efficient or otherwise. This depends a good deal on the jail in which he starts working, and the efficiency of the officers who train him. Most of such men know nothing more than the mere routine of their duties. They have never had the time nor been given the training to understand the graver responsibilities of their position, and so they have just drifted along. It is a matter for serious regret that this important question of the training of the

jail staff has not been properly taken up. So far, I know of only one jailors' training school—that established in Burma.<sup>1</sup> Officers trained at this school have made an immense difference in the administration of the department. All Superintendents agree that young men trained at this school start their career well equipped with the knowledge they ought to possess. Some Superintendents have actually stated that the young men trained at this school are far more efficient than some of the older hands. It is hoped that these encouraging results will persuade Provinces that lack schools to follow the example of Burma. We shall discuss the subject in detail further on.

As the warder is the prison officer in immediate contact with the prisoner, a good warder can be a great help, and a bad warder the reverse. The type of man that we are forced to employ is as a rule unsatisfactory. His salary is below that of a policeman or even of a *darwan*; and so the Prison Department gets the leavings of all others. The warder's main idea when he enters the prison service is to get what he can out of it. Many prison irregularities can be traced to the warders. They are usually the

<sup>1</sup> I have since heard of another school recently started in the Punjab.

media for smuggling contraband or unauthorized communications out of a jail. It is not uncommon to find tobacco, opium, *ganja*, and cash inside a jail. These can only be brought in either through the connivance or the active assistance of warders.

Warders, moreover, have very little idea of their higher duties. They do not usually believe that a man is in prison for any other purpose than to receive punishment, and they seem to believe that they are right in practising all sorts of petty tyrannies. If some of the disturbances in a jail in which warders are concerned were thoroughly investigated, one would find often that the cause was a warder's petty tyranny over prisoners, nagging and bullying, or failure to carry out his part of a 'bargain', whether it be the supply of tobacco, opium, or cash. Numbers of such cases are brought to light from time to time, but there is no doubt that still larger numbers remain undetected. It can easily be imagined what a bad influence such conduct on the part of warders has on a prisoner.

Prison officers must have a rigid code of morals if their influence is to be in the direction of correction and reform. When a prisoner finds that an officer placed above him is dishonest,

he considers it an act of injustice on the part of the authorities to place such a man above him. I can recall a good illustration of this. On one occasion, a Superintendent had punished a jailor for eating a meal consisting of several *chupatties* in the jail cook-house, which the jailor was supposed to supervise at the time. I requested the Superintendent to parade this officer before me at my next visit to his jail. When the jailor was produced, I asked him why he had helped himself to the food. He tried to explain that one of his duties was to taste everything that was prepared. When I further questioned him why it was necessary for him to taste several *chupatties* before he could make up his mind whether they had been cooked properly or not, he had no answer. I then asked him whether he realized what effect his action must have produced on the minds of the thirty or forty prisoners who were then engaged in the cook-house. When I informed him that I was less worried about what he had done than about the evil effect it would have on the prisoners, he was surprised.

I told the officer that the prisoners must have thought about the matter in some such manner as follows : ' Here we are in this jail,

convicted for, say, theft, undergoing a certain sentence. We do not mind taking our punishment, but it is rather hard on us that another man who is also a thief should be placed in a position of authority over us.'

One such officer can undo all the good that several others may be able to do. Acts of dishonesty on the part of prison officers are happily not so numerous now as they used to be in the old days, but it should be noted that though the higher authorities may not be aware of all that is happening, prisoners have full knowledge of the behaviour of their warders and jailors, which takes place under their very eyes. Such conduct can have no good influence on the prisoners and it is, therefore, essential that great care should be taken in the selection of the staff and in their training. I have not the slightest hesitation in affirming that as long as we do not improve the type of warder or jailor, there is not much hope of us managing our prisons in an efficient and business-like way, and securing our ultimate object of training and reform of the prisoners.

I shall now deal with the duties and responsibilities of Superintendents. Officers of this high rank have no doubt done excellent work



in the past. They have given full value for money. If economy were the only criterion, one could say that that object has been amply fulfilled. The policy of the Government in most Provinces has so far been that a small number of Superintendents are engaged as whole-time officers, while the rest are Civil Surgeons in collateral charge of jails. The majority of jails being in the part-time charge of Civil Surgeons, it can be easily seen that the management of such institutions rests mainly in the hands of the chief jailors. This unsatisfactory position can only be excused on grounds of economy.

On this matter I can do no better than quote the words of Mr A. Paterson, one of His Majesty's Prison Commissioners, who came out to Burma a few years ago :

' The superintendence of a jail is a highly technical piece of work, a skilled profession in itself, and cannot be performed in a few spare hours by men wholly untrained for it who are not selected by reason of their fitness for it, but slip into the part by the mere accident of their being Civil Surgeons in the area. They sign their names upon a hurried series of forms ; they hear applications from, and administer justice amongst,

prisoners whose language is usually a closed book to them. They are compelled to accept from the chief jailor and his subordinate jailors not only the interpretation of all that a prisoner says, but also the account of all that happens in a jail itself. Their conception of a jail rarely goes further than supposing all is quiet, if the prison is clean and the prisoners well, the accounts correct, and there are no escapes. They never have the time nor the experience to face such a pungent question as to whether a man is worse or better for spending five years in that jail.'

I do not wish to underrate the merit of what has been done in the past by the part-time Superintendents of prisons in India. They have brought the management of prisons to a fairly high state of efficiency, especially as far as health questions are concerned. They have done their best to serve the Government in the Prison Department but, as Mr Paterson says, the superintendence of a jail is a skilled profession, and I am of opinion that the time has come when we should have trained officers' in whole-time charge of at least the larger jails.

Superintending officers need just as much training as jailors and warders. No attempt

has so far been made in India to give Superintendents the necessary training ; the so-called training that they usually get is a short period in a jail under a more experienced Superintendent, who teaches them the mere routine of prison management—such as admission and release, the granting of remission, the mode of punishment, the accounts and compilation of returns, and so on. During the short period that a Superintendent is trained, it is quite exceptional for him to be taught what one may describe as the ethics of his work—his higher duties towards the prisoner and towards society. Unless they study the subject carefully themselves, few Superintendents can know anything about the idea of 'service', nor are they concerned with 'the pungent question as to whether a man is worse or better for spending five years in a jail'.

Prisons and prisoners are an absorbing and interesting subject. We are dealing with human beings with all kinds of mental and moral kinks. It is most interesting to discover the factors involved, and the circumstances that caused the condition in any particular individual. It is much more interesting to make an attempt to correct the shortcomings in the man. A jail officer should be just as pleased and proud to

see a prisoner returned to society a good citizen as a doctor would be to see a complicated case cured permanently.

As we have no training schools for Superintendents, the only way such an officer can train himself is by visiting institutions in countries where training is undertaken by the authorities on modern lines (indications of which are given in this book) and by reading the extensive literature that is available.

There are many pitfalls a Superintendent of a jail in India has to avoid. He must have a clear conception of what he is, why he is there, and what are his duties. He should be a good judge of human nature, so that he may not only size up the mentality of his prisoners, but also that of each member of his staff. The first idea that he must have is that he is in the position of what in India is ordinarily called 'father and mother' to both his staff and the prisoners. He is there to see fair play. He is there to see that even-handed justice is done to all. It is his duty to discover the truth of every matter that comes up before him, and to protect the weak from the strong. At all times he must be strictly judicial in his attitude, patient, and forbearing. He must realize that he has charge of so many human

beings and that he can either make or mar them.

On the one hand, he has to see that the staff is obeyed and that discipline is maintained. On the other hand, he must ruthlessly stop any kind of tyranny or cruelty practised on the prisoners. A display of temper, or of shouting and bawling, would be a great weakness on the part of a Superintendent. If he loses his temper, his judgement is likely to be warped, and his influence on either his staff or the prisoners is certain not to be healthy. He should at all times be accessible to every prisoner, and patiently listen to whatever he has to say. Whenever any irregularity comes to his notice, he must not rest till he has found out the truth, and remedied whatever evil he has discovered.

When the staff find that the Superintendent is bent on running his institution in a proper manner, they will fall into line and co-operate with him in every way, especially if they know that the Superintendent is ready to sympathize with and help them in their troubles. In short, a Superintendent and his staff should be like a happy family, working for a common goal. It is extraordinary how prisoners also respond to such harmony. Petty quarrels and

fight practically disappear, and an institution so staffed gives one instantly the impression that everyone is working honestly and earnestly for a definite and noble object.

## XVI

### IMPORTANCE OF TRAINING SCHOOLS FOR THE STAFF

**I**N every Province there should be a reserve of warders, jailors, and even of officers in the gazetted ranks, who should be under a course of serious training for a period of at least one year. If a school of this kind were to be started in every Province there would be a vast and immediate improvement in the management of the Prison Department. If, on the score of expenditure, it is thought that such a school would be difficult to establish in each Province, one school may suffice for two or three adjacent Provinces, all pooling expenses together. In the alternative, a central school for the whole of India might be started.

It is important that teachers in these schools should be carefully selected, as on the earnestness of the teachers will depend the future efficiency of the officers taught. There is one such school, as stated already, for jailors in Burma. It was found that one particular batch was not efficient, and complaints were received

from numerous Superintendents that the so-called trained jailors were not trained at all. Complaints were only received with regard to this one batch, and the conclusion that one came to was that the teaching during that year must have been of an inferior and unsatisfactory nature.

At this central school there should be three separate departments, namely, one for warders, another for jailors, and a third for Deputy-Superintendents and Superintendents. Warders, in addition to drill and training in 'smartness', should be given a clear idea as to what their duties are with regard to the treatment of prisoners in general. They should be given clearly to understand what we are trying to achieve by keeping a prisoner in jail, and what are the pitfalls to be avoided. Great emphasis should be laid on the necessity for fair treatment to all alike, without fear or favour, and of behaving at all times in a dignified way. Warders must be taught that dishonesty on their part, in any shape or form, will be treated with the utmost severity, and the various acts of dishonesty that are known to us should be clearly indicated.

The jailors' training class should teach these men not only the routine of every branch of



jail management, but also the aims and objects of modern penology. We are fortunately able to recruit men of fairly decent education nowadays ; competition is so great that it is not difficult to obtain the services even of University men as jailors. If the new recruits are carefully selected, and if during their training an appeal is made to all that is good in them, and the idea of 'service' emphasized from the first day, there would be a great change in the outlook of the jailor class of the future.

Gazetted officers, in their turn, need training as much as anyone else. They must be given to understand that the subject of the treatment of offenders is a speciality and requires close study. Officers must be asked to give up preconceived ideas on the subject, to learn facts as they are, and to benefit by the success and failure of older men. The Superintendent and Deputy-Superintendent should have a clear idea not only as regards the mere issuing of orders, but also as regards seeing that their orders are properly carried out. They should be well acquainted with the usual routine of jail management, so that they can easily detect irregularities when these occur.

I am saying this with a purpose. I have often heard, for example, Superintendents com-

plaining that jail accounts are too complicated for them to understand. One question to them settles the matter. I used to ask them if they considered themselves less capable of understanding what is after all a simple method of accounting than their less educated jailors who actually keep the books. The reason why Superintendents sometimes think that accounts are too complicated for them is because they have never had any training in such books. Once the routine is carefully explained to an officer, it should be easy for him to judge whether his subordinates are working efficiently or not.

I cannot emphasize too strongly that routine itself is not sufficient for the gazetted ranks ; the study of individual prisoners should form an essential part of their training and knowledge. They must know the science of the subject ; they must be taken through the causes of crime, the type of man they are dealing with, the method of finding out the defects and shortcomings of individuals, and the appropriate treatment in each case. I am aware that the numbers each Superintendent has to deal with are large, and that it is impossible for him to deal with each case individually. That is a problem which will never be solved

until we reduce the size of jails, and hold the Superintendent responsible for no more than five or six hundred prisoners. But even under present conditions a good deal can be done by an alert and watchful Superintendent.

Just as a priest pays special attention to what may be called the irreligious members of his congregation, leaving the good persons more or less to take care of themselves, a Superintendent, when he is faced with his vast problem, concentrates on the badly behaved and truculent prisoners, and tries to bring them to their senses. He leaves the well-behaved prisoners, and those who are working diligently, alone, in the hope that the system of training obtaining in his jail will do what is needed. If you weed out all the bad men and correct them, a tremendous effect is produced on the whole population, and an atmosphere of cheerful co-operation created among the prisoners. And that is, after all, one of our main objects.

There is no doubt that such a policy of concentrating on the badly behaved or defective prisoners bears fruit. An experiment was tried in Burma on a large scale. Every jail has a number of truculent prisoners who are bullies and tyrants. They assault others on the slight-

est provocation, and are constantly brought up before the Superintendent for misbehaviour. Punishments, even flogging, appear to have no effect on them, and Superintendents are often at their wits' end to know how to deal with such persons. A few such prisoners will undermine the discipline of a whole jail, and prisoners who are not equally adventurous are often encouraged to attempt similar behaviour in the hope that by making themselves thoroughly objectionable, their fellow prisoners and the staff will be afraid of them and allow them to have a good time.

A scheme was therefore started of segregating such prisoners in a separate jail, under a special staff. At this institution the prisoners were submitted to the closest supervision and the strictest discipline. At first they tried to give trouble, and to add a good deal to the responsibilities of this special jail, but in due course they discovered that nothing but consistent good behaviour would render them eligible for a re-transfer to an ordinary jail. They then showed signs of rapid reform. The original number thus transferred to the special jail was over one hundred a few years ago. At present there are only about thirty prisoners in it

Not only has this treatment had a good effect on the bullies, but it has also helped to improve the general behaviour of prisoners. When prisoners return from this special jail to the ordinary jail, they naturally advertise the fact that it does not pay to misbehave, and so potential bullies are prevented from developing a troublesome career.

Individual attention paid to bad characters in a jail is interesting and instructive. From several cases I know, I would like to cite that of a prisoner, who was one of the most troublesome I have ever come across. The offence that brought him to jail was murder, and his sentence was a life sentence. Almost every week he used to be paraded for some prison offence or other, disobedience of orders, refusal to work, assault, and so on. He had been in two other jails where corporal punishment had been tried on him without any effect. When this prisoner was tackled in the right way, he not only gave up his bad habits, but became a great help. All that happened was that I had a heart-to-heart talk with this man. I asked him whether it was his desire that he should die in that jail, or whether he wanted to be eventually released. He naturally said that he did not wish to remain in jail for the rest

of his life. Then I drew attention to the fact that he was doing everything he could to prolong his stay in the jail, and pointed out that bad behaviour meant no remission, and would preclude all possibility of the Government ever considering his case for release, as his sentence was technically a 'life' sentence.

As soon as this aspect of the question was brought to his notice, he realized what a fool he had been, and I struck a bargain with the man. I asked him whether he would promise to keep absolutely free from punishment for six months. If he did so, I would recommend to the Inspector-General that, as a special case, he should be made a convict officer of the first grade. To cut a long story short, the man not only kept his promise, but as the Inspector-General was desirous of a longer test, the prisoner behaved for thirteen months in an exemplary manner, before he was given the coveted convict officership. As a convict officer he worked for 'law and order', and, as he was physically strong, very few prisoners under him ever dared to pick quarrels or fight.

This case is instructive in this sense: it teaches that mere punishment does not always correct an offender; that sometimes it pays to appeal to his good sense, even when that

appears to be absent, and that sometimes what is almost a miracle occurs.

There are many directions from which prison authorities can approach an offender in order to bring out what is good in him, and I am tempted to cite yet another instance of this kind. An old woman once applied at the jail for an interview with her prisoner son. This young fellow had been so badly behaved that he was not entitled to the privilege of an interview. The jailor, therefore, placed the case before me for the reason that the old lady had come from a considerable distance. On interviewing the mother, I discovered that the young fellow had run away from home several years ago, and that she had been hunting for him high and low, and had at last traced him to this prison. The prisoner's conduct had been so bad that we had almost despaired of him. I thought, however, that it might be a good opportunity to try the influence of a mother. I allowed the interview as a special case, after extracting a promise from the mother that she would do all she could to bring the boy back to his senses. I happened to pass the place where the mother and son were talking to each other, and found them both in tears. I left them alone for the mother to

complete the work. After this interview, the prisoner entirely changed his outlook for the better, and gave us practically no trouble while he was with us.



## XVII

### ADMINISTRATION: THE INSPECTOR-GENERAL OF PRISONS

IT follows from all that has been said in the previous chapters that there is little use in introducing new systems of dealing with the criminal, practising the more sensible methods of prison reform, and organizing the jail service on better and more efficient lines, if the head of the Prison Department in a Province is not an expert and an enthusiast, and determined, as far as in him lies, to reclaim the offender and to prevent the commission of crime. The key appointment in the Prison Department of every Province is the Inspector-General of Prisons. It is a post I held myself for over ten years and it is from my own experience, from the knowledge of my own mistakes, my own experiments, and my few successes, that I am venturing to lay down some general principles which should govern the discharge of this extremely difficult and responsible post.

An Inspector-General of Prisons is selected from among the whole-time Superintendents

of jails. Under present arrangements the post is reserved for members of the Indian Medical Service, who do not as a rule get much training for their duties. Thus it is possible for a Superintendent who has not taken the trouble to realize the intricacies of the problems involved to enter upon the duties of the Inspector-General with little of the necessary knowledge for his appointment. As a Superintendent, moreover, he has been accustomed to look at the Prison Department from a purely parochial point of view, and it will take him some considerable time to realize that he is not dealing with a pet child, namely his own jail, but with several children, who all have to be administered and dealt with fairly. When an Inspector-General enters upon his duties, he generally does so without any previous training in that post. It takes him months to find out what has gone before and what he is required to do, and he has to wade through file after file, even in connexion with trivial matters, in order that he may get a grip of the routine. It would, therefore, be a wise policy if the Inspector-General designate were to be relieved of his duties of Superintendent for a period of at least six months, and attached to the office of the Inspector-General for training. It is true that there is a system in every Province

under which the senior Superintendent does get an inkling of the work of the Inspector-General, while the latter is away on tour, but such knowledge is meagre, and of a purely routine nature. The Superintendent never gets to know anything about what may be called the higher problems and policy that face the Inspector-General.

The Inspector-General in most Provinces of India is an overworked officer. He is not only expected to be the head of a very large office, but also to look after the medical section of prison management, and to deal with the most intricate problems of prison labour and finance. In addition to this he has to tour round the whole Province carrying out routine inspections. These multiple duties are too much for any one man, and the result is that one or another branch gets neglected. Finance and industries alone require the services of a whole-time officer, especially if prison labour is to be made to pay.

A good deal of the time of the Inspector-General is spent in mere routine, which leaves him little time for the study of the various complicated problems, and the working out of the various schemes which fall within the legitimate sphere of his administration. If an

Inspector-General is expected to be the adviser of the Government on all matters connected with prisons and prisoners, he should be relieved of a good deal of recurring routine by the appointment of an officer who can carry out such duties.

What we have said about the duties of the Superintendent applies with much greater force to those of an Inspector-General. He must realize that he has many jails and several thousands of prisoners in his charge ; that he has also to control the work of Superintendents, Deputy-Superintendents, jailors and warders as well as the medical staff. Just as Superintendents are to be condemned for the mere carrying-out of routine, so an Inspector-General should rise above routine and be always ready and willing to carry out modern reforms in his department. In order to attain this object he has to keep himself abreast of modern thought on the subject. It is only natural that he should be proud of his own administration and his own Province, but that should not blind him to the merits of other Provinces or other countries, and a visit to them is always of great benefit.

Just as a Superintendent gets narrow-minded if he only runs his own jail, and never sees

other jails, so does an Inspector-General get stereotyped if he does not see what other people are doing. In this connexion, it gives me the greatest pleasure to refer to the excellent opportunity afforded by the English Prison Commission to Inspectors-General in India to study advanced prison methods operating in England. The members of this Commission are always ready and willing to show whatever we want to see, and are also prepared to advise us with regard to many other institutions directly or indirectly connected with prisons, such as the working of the Prisoners' Aid Societies, the Probation System, and so on. An Inspector-General who keeps his eyes and his ears open during such a visit learns a valuable amount, and it all goes to make his work more efficient when he returns to his Province, and his advice to his Government more useful. In fact, I would go so far as to say that every Provincial Government should insist on their Inspector-General widening his knowledge during the periods of his leave, and encourage him by offering to defray the small expenses involved.

The post of Inspector-General of Prisons carries with it heavy responsibilities. I doubt whether these responsibilities and the diffi-

culties under which this officer has to work are appreciated by either the Government or the public. This officer is the head of a department which deals with the present and future lives of thousands of his fellow-citizens. On the policy adopted by him will depend the success or failure of the prison administration of the Province. He has grave responsibilities with regard to finance, and a good deal depends on his vigilance and wisdom as to whether a Province is able to administer its prison department economically or extravagantly.

The Inspector-General has to deal with prison discipline, both as regards prisoners and prison staff, and, just as with the Superintendent, the efficiency of the department and the cheerful co-operation of everybody concerned will depend entirely on the confidence that the Inspector-General is able to inspire in his ability and his sense of absolute justice.

One of the important duties of the Inspector-General is the safeguarding of the health of the prisoners. This is no inconsiderable part of his duties. He has to watch the health statistics of each jail, and has to lay down a policy for individual jails as well as for the jails of the Province. This part of his duties has usually been carried out with great efficiency.

as will be seen from the health statistics of the prisons of India. It is nowadays taken for granted that most prisons are almost health resorts when compared with conditions outside. I do not think that the splendid work done by the Prison Department with regard to the prevention of disease and the preservation of the health of prison inmates has so far been sufficiently recognized.

The comments I have so far made in connexion with the staff are, I am afraid, mainly destructive. The defects of the system have been pointed out, but I would be failing in my duty if I did not pay tribute to the main body of prison officers for the uphill work they have been doing silently for years past. As I have already stated, prison work is irksome, the hours of work are long, and the pay is small. The wonder is not that irregularities occur, or dishonesty is seen here and there, but that things are not much worse. The fact that out of 20,000 prisoners barely a dozen escape during a year, most of them from outside a jail, is a glowing testimony to the vigilance and efficiency of the staff. Quarrels, assaults, and grave breaches of discipline are gradually disappearing from our jails; such can only be the result of a more just and humane treatment

of the inmates. Improvement can be seen all round, but an idealist may be forgiven if he should wish for more. Defects are still there, and it is our duty to remove them if possible.



## XVIII

### AFTER-CARE OF RELEASED PRISONERS

**I**T has been obvious from what I have had to say about the problem of the juvenile criminal and the problem of the habitual that sympathetic supervision plays an important part in modern methods of reclamation, and it will not be out of place to recapitulate here a few points which are worthy of consideration, and are applicable both to the present and to any future system.

One of the most critical periods in a criminal's life is that which follows immediately after his release from jail. His difficulties are in direct proportion to the length of sentence he has undergone. Arrest, trial, and sentence, culminating in the working out of a period of imprisonment, humiliate a man and make him lose his self-respect. Modern training in prison, and modern methods of reclamation, attempt to reconstruct and restore this self-respect, by means of intelligent training and what might be called reformation during imprisonment.

But however enlightened a prison system may be, no prisoner emerges quite the same as when he went in. If the period has been lengthy, it is often found that a man will lose the use of some of his mental faculties, and he has to learn how to adapt himself to fresh surroundings. He is like a cripple beginning to walk, whom the slightest push bowls over. A man who has had to spend years in prison and suddenly finds himself free, becomes so vulnerable that the slightest temptation is enough to turn him from his excellent desires, and from his determination to live as a reformed character. Moreover, society as it is constituted today always bears a grudge against a man who has been in prison. People only remember the evil that a man has done and the wickedness that he has exhibited. They do not know, and they have scanty means of knowing, that a man has made good, or that he is a reformed character. Most people view him with hostility, and practically everybody with suspicion. Thus, however much a man may try to lead a straight life, he is bound to meet with opposition, and there will be many occasions when it is very difficult, if not impossible, for him to settle down to the life of an honest citizen. This is the time when he needs assistance and

guidance most, and these difficult periods are the main reason for the existence of what we call Prisoners' Aid Societies.

These societies are unofficial, philanthropic bodies, whose aim is to look after the welfare of prisoners, partly before they are released, but mainly after. Their members do an enormous amount of good by visiting prisoners before they are released, learning all about their characteristics, and collecting the opinions of prison officers, the Superintendent of the jail, the Medical Officer, and also of the priest. When the prisoner is released they are thus capable of stepping in and helping him in his ordeals. Fortunately in India the majority of our prison population come from the agricultural classes. They have a home to go to, and relatives. So it happens that the actual number requiring the assistance of such societies is not very large. But even in India there are numbers who are in urgent need of help and guidance. There is a clamant minority from the towns, cities, and villages who have no homes to fall back upon. Often, too, a released prisoner finds that he cannot practise his old trade in his old village, either because economic conditions have changed, or because the villagers do not wish to employ him. He

is forced to go elsewhere. For such men, a Prisoners' Aid Society should cater by providing facilities for board and lodging, and by helping in the search for employment. A little help given at this stage makes all the difference between the ex-prisoner leading an honest life, or lapsing back into crime.

This after-care of prisoners is one of the most beneficent occupations that an enlightened society can engage in, and it is also a practical measure for the prevention of crime and for the protection of society. The scope and nature of such work is not well enough understood in India. Such societies as exist are still in their infancy in every Province. This is no antagonistic reflection on India, as even in western countries the development of the idea is only of recent origin. What I would like to emphasize here is that the after-care of prisoners is an act of high social, even religious merit. It does not matter what religion one adheres to in this vast country ; the fact remains that there can be no more humane work than that of raising to their feet those who have fallen by the way, and helping them to lead honest lives.

I had to work with such a society in Burma for years, and I am well aware of the difficulties

in their way. Funds are scarce ; volunteer workers, people ready to give up a considerable part of their leisure to such work, are scarcer. There is very little encouragement to be had from the public, and, in some cases, even less from the authorities. I have heard members of such a society say : ' What is the good of all this ? Nobody helps us with funds. We spend an enormous amount of time and labour merely to help a handful. Let us close down the society and be done with our work.' It is certainly true that there is much discouragement at present, but I have been able to detect in practically every Province signs which go to prove that the public is beginning to take an interest, and that Governments are beginning to recognize the value of such work as has been done. All pioneer work is difficult ; these societies are pioneers, but they can rest assured that their work will eventually triumph. Governments and the official world must realize that Prisoners' Aid Societies are bodies of voluntary workers who come forward to help the administration of law and order at the expense of their own time and money. Theirs is a labour of love. Every man saved by a society from going back to jail is a valuable contribution to the body politic, and a saving

to the Government. It should not only be a wise policy but also the duty of the State to encourage the formation of such societies all over the country, and by sympathetic support and financial aid to make it easier for them to carry out their noble work.

Closely connected with after-care is the work of Jail Visitors. This important work calls for a few special remarks.

Jails have been visited by officials for many years, probably from the date the first jail was built in India. But the use of unofficial agencies for this beneficent work has been only a recent innovation. It is therefore natural that jail visiting has not reached such a high state of efficiency in India as it has in Europe.

Jail visitors can do much good if they take up their self-imposed duties seriously and go about their work in a businesslike manner. As we have no tradition to guide freshly appointed visitors, it is necessary for the Inspector-General and Superintendents to take an interest in the work and explain to visitors what they are expected to do. If interest is taken in the work of the visitors, they will also come forward to assist the local branch of the Prisoners' Aid Society, if so required. Such help is greatly needed everywhere.

As most visitors appear not to know what they are expected to do, it is advisable to have a card printed, with the authority of the Government, putting down the salient points for their guidance, not omitting to add that they can look into any other matters they desire. Such a card should be supplied to each visitor on first appointment.

In order that the work of visitors be appreciated by prisoners and the influence of the visits prove of benefit to them, it is essential that the prison staff from the Superintendent downwards should treat all visitors with the respect they deserve. This is the least the staff can do in recognition of their self-sacrificing voluntary work. In jails where visitors co-operate earnestly and intelligently with an appreciative staff, an enormous amount of good ensues all round.

## XIX

### CONCLUSION

**A** new epoch is dawning in India. Whatever may be the degree of self-government emerging from the intended reforms, however satisfactory or unsatisfactory the degree of autonomy may be, this one fact is certain—there is a dawn of a new era when the responsibility for progress and social advance will be thrown upon the people of India themselves. In the past a certainly bureaucratic, and often autocratic, system has derived its inspiration from its own conscience, and has rarely been influenced by what might be called public opinion. What social reforms there are to the credit of British rule have been the result of individual inspiration on the part of those in high places, rather than the collective resultant of the views of citizens impinging upon the knowledge of the executive. This has been most obvious in the realm of law and order. The Government of India has been careful not to innovate, not to tamper, and not to attempt to change too rapidly or too drastically the social torpor



inured by centuries. Law has meant the bare necessities of tranquillity, and the creation of an atmosphere of peace, regardless of what in most other countries has been in recent years incorporated in legal enactments. This new spirit has been particularly in evidence in countries like England and Germany and some States in America. It is a spirit which does not rest content with mere pacification and with rules for punishing disturbers of the peace. There has grown up in these countries a vast body of legislation which is based primarily upon moral and ethical considerations. Society has examined itself and found itself wanting in many respects, and so modern legislative bodies have tackled the problem of self-improvement on comprehensive lines which would have astonished the old-fashioned jurist. Factory legislation began, for example, as the result of the activity of a small body of humanitarians. The vast and complex amount of unemployment legislation is the result of a new theory of the State which twenty-five years ago appeared almost revolutionary. Slum clearance is not penal in origin ; it is essentially ameliorative and inspired by these new ideas. Briefly, the theory is now widely held that it is the duty of the spokesmen

of the public, of the thinkers of the State, and of the more comfortably-off among the electorate, to do whatever is possible for the unfortunate lower members of society.

This duty must be the prime consideration of the new legislative bodies which will soon operate in India. The desire for self-government must justify itself in a constructive body of social legislation. I do not mean for one moment to imply that nothing has been done by British rule, by Calcutta, Delhi or Simla. There is a foundation, and perhaps one of the most stable foundations, in the existence of an organized and systematically directed administration. But in the place of benevolent despotism, or paternal autocracy, there must be substituted the working of the public conscience, and this public conscience must, in places where it does not exist, be created and stimulated, while in places where it has already come into existence, it must be educated and guided. There is an illimitable field for the social reformer in this future India. There must be better and sounder and more widespread education. There must be a higher standard of living, a higher wage level, security against unemployment, and provision against sickness. Our agricultural methods must be

modernized, and the ryot must be given a more ample margin of economic safety. Public health must not be a matter of occasional regulation and the stamping-out of dangerous epidemics. It must become a crusade which will preserve infant life, and put more flesh upon the bones of the humblest worker. The loathsome slums and bazaars of our great cities must disappear, and a housing policy must substitute hygienic dwellings for the insanitary hovels of the villages.

All these questions are, of course, far beyond the scope of this little book, but the problem I have attempted to analyse and to solve, though in comparison it be but a small one, is, I am convinced, important in that it runs parallel with our view of society. Where law is merely concerned with order, and order is merely concerned with tranquillity, it may perhaps be permissible to entertain old-fashioned ideas about crime. But in the new India which all of us must now take a hand in building, law and order should become a very different thing from the conceptions of the Penal Code, and the criminal become not so much an individual aberration as a sign of some pathological disease in the body politic. We shall have to measure the efficacy of our future civilization

by the degree in which we are able to decrease crime and the number of criminals. If we adopt this wider and better attitude towards society, we shall adopt advanced methods of the character I have indicated in the above chapters, and our penal system will be directed, like preventive medicine, towards the prevention of crime rather than the standardization of punishment.

There is, therefore, behind my thesis, a vision of a new society in India. I would base my case primarily on the necessity for the adoption of these new ideas. It is quite true that intrinsically the reforms I have advocated are more humane, more reasonable, more productive of good, and more economical in the long run than the old narrow methods which stopped short at the four walls of a prison, and the monotony of a treadmill. It is quite true also that the new methods which I have urged for the treatment of the young offender, the first offender, and even the habitual, have merit in themselves in so far as they are bound to lessen the number of criminals in the country by abolishing what might be called the chain system of crime. But apart from all these considerations, I urge the necessity of prison and penal reform as an

essential counterpart to the new sociological views inspired by the idea of the brotherhood of humanity, and the moral duty the average citizen has towards any more unfortunate fellow being. Crime from this point of view is a disease which can be cured, and if it cannot be completely eradicated, it should be possible to build up in the individual a stronger resistance point, and in the patient himself an attitude of mind which benefits from society's better comprehension.

The recommendations I have made in this work may be summed up as follows :

1. A more enlightened and humane method of dealing with offenders of all ages.
2. The institution of alternatives to imprisonment, particularly the probation system, preventive detention, and revision of long sentences, and special treatment of young offenders.
3. After-care of released prisoners.
4. Efficient training of the staff.

There is no necessity here to go over again the ground I have covered, or to re-emphasize the points I have made. Quite apart from the technical problems of prison administration, the staffing of our jails, and the urgent neces-

sity for recognizing the importance of adequate training and knowledge on the part of everyone concerned, I have based my reforms on the simple proposition that the criminal is a member of society, even after he has committed a crime. I believe that society has a duty towards him which must be discharged in a kindly and intelligent fashion. We must not make criminals, we must prevent them; and I have therefore urged the most meticulous care in handling the young offender. Our greater knowledge today has taught us that much juvenile crime is the result of the faults of society. We have found that environment, bad education, the conditions of our villages and cities, and the absence of adequate parental control, are more responsible for the youthful offender than the incidence of a double dose of original sin. In a properly organized new India, the majority of youthful offenders should be reclaimed by the State and turned into useful citizens. This work is essentially preventive, and there must be no stinting of money in providing the essentials for its accomplishment. Every rupee spent in the treatment of the juvenile offender is returned to the State a hundredfold. It is my sincere hope that the modern treatment of juvenile crime will

become an essential part of the administration in every Province in India, and that such terms as Probation, Training Schools, Borstal Schools, After-Care Associations, and so on, will become as familiar to the public's vocabulary as jails, prisoners, and transportation have been in the past.

Nor do I despair of the habitual criminal, and I have shown that his problem too is susceptible of intelligent treatment. This also is prevention of crime, the difference being, however, that in this case we are trying to prevent crime, or rather, further crime, at what we hope will be the end of a criminal career. I believe that the adoption of the plans I have suggested will go a long way towards lessening the number of our habituals. It is an urgent question. Every police force in India is faced with the problem they provide. Vast sums of money are expended every year on their detection, trial, and maintenance in prison. Their cost to the public does not stop here. They seduce others, and even when not actively engaged in crime, have to be watched and traced. All this would be saved if there were an efficient system of preventive detention.

These are but two points out of the many I have attempted to make. This book, as I

have said before, is no exhaustive treatise on crime and the criminal. It is a collection of a few practical suggestions, the efficacy of which has been borne in upon me by experience.

I am a whole-hearted believer in what I have ventured to call the new conception of society, and all I have endeavoured to do has been to show how the application of these new ideas can be made to one small branch of sociology. For the completion of such work, it is necessary to enlist that idea of social service which was the glory of India in the past, but which unfortunately has been somewhat dormant in recent times. There is urgently required, for the reforms I have pressed, the existence of a body of enthusiastic, self-sacrificing men and women who will not only believe in the necessity for saving human souls, but who will also be willing to devote their lives to such rescue work. Public opinion must be orientated, and made to tackle these prison reforms in the right way. I know there is much to be done to create a new India worthy of her past, and fit to take a proper place in the comity of nations. I know also that, compared to many of the questions demanding immediate attention, the ones I have urged may seem almost trivial. But I



am equally certain that there is room in any practical programme for the advancement of modern reform for the points I have made, and for the solutions I have proffered. Again I would remind my readers that the measure of a country's civilization is the spirit of her penal system. India will be a better, happier, and more contented country if her public life is inspired by an extension of the ideas which are at the bottom of the tender care of the young criminal and of the hopes which demand a further attempt at the reclamation of the most confirmed habitual. It is in the small things that a country proves its genuineness, and its belief in its capacity for approaching practical idealism.



## APPENDIX

### CAPITAL PUNISHMENT

As I have often been asked my opinion of the efficacy of capital punishment, I am appending here a few points on the subject for the consideration of those interested. The question whether any offence should be punished with capital punishment has often been debated. It is not my object to enter into an academic discussion on the subject, but I am venturing to record a few salient points, in connexion with this penalty, as summarized in the excellent work *Capital Punishment in the Twentieth Century*, by E. R. Calvert.

The plea always offered for awarding capital punishment is that society must be protected. This idea of the protection of society was carried so far in the past that even for trivial offences capital punishment was awarded. Gradually human nature revolted against such cruel punishment, and the extreme penalty has been abolished in connexion with all offences excepting murder. For example, in

offences for which capital punishment was prescribed not more than a century ago.

Capital punishment is awarded because it is thought to act as a deterrent to potential murderers. Most murders are crimes of passion, and are committed under circumstances in which consequences are hardly ever considered. Even in the few premeditated murders that do take place, the murderer is confident of escaping detection, and so he does not consider the consequences. In neither case can it, therefore, be said that capital punishment is a deterrent.

Capital punishment has been abolished in a large number of some of the most civilized and law-abiding countries. In no such case has there been a consequent and permanent increase of homicides. On the contrary, there has been a decided decrease in the number of murders. This further goes to prove that the death penalty is not a necessary deterrent.

Capital punishment brings intense suffering to prison officials and has a demoralizing influence over the prison population.

Capital punishment is irrevocable, and as there have been cases of innocent men so sentenced, this punishment may be both cruel and unjust.

Capital punishment encourages jurors and

assessors to bring in a verdict of 'not guilty', and thus there is a chance of dangerous homicides being allowed to go scot-free.

Capital punishment violates our belief in the sanctity of human life, and stands more or less condemned thereby. Our business is to redeem the offender.

The alternative is a long term of imprisonment. This is not an ideal substitute, but is the next step in penal reform.

One of the most unpleasant duties of a prison officer is that of carrying out the capital punishment. I have not come across any officer, from the highest to the lowest, who does not have an intense dislike for the performance of this duty. The day on which a prisoner is going to be executed is a day of mourning in a jail, in which the members of the staff and the rest of the prison population take part. Even the magistrates, who have to witness the hanging, dislike this duty. Everyone wants to get over the unpleasant business as quickly as possible, and say nothing more about it.

As Calvert has written, 'Capital punishment has *not* been a deterrent'. We have tried this punishment for years and years past, and the number of murders has not been reduced. As I have said before, crime is prevented more

by the certainty of punishment than by its severity, and it would be wiser to take whatever measures lie in our power to bring about more convictions in murder cases than hitherto. If such a result can be brought about by abolishing capital punishment, the experiment is fully worth trying. It may be that if it is known that on conviction the accused will not be executed, more witnesses will be ready to come forward to denounce the accused. Juries also will be more encouraged to give decisions in accordance with their conscience.

